Google

This is a digital copy of a book that was preserved for generations on library shelves before it was carefully scanned by Google as part of a project to make the world's books discoverable online.

It has survived long enough for the copyright to expire and the book to enter the public domain. A public domain book is one that was never subject to copyright or whose legal copyright term has expired. Whether a book is in the public domain may vary country to country. Public domain books are our gateways to the past, representing a wealth of history, culture and knowledge that's often difficult to discover.

Marks, notations and other marginalia present in the original volume will appear in this file - a reminder of this book's long journey from the publisher to a library and finally to you.

Usage guidelines

Google is proud to partner with libraries to digitize public domain materials and make them widely accessible. Public domain books belong to the public and we are merely their custodians. Nevertheless, this work is expensive, so in order to keep providing this resource, we have taken steps to prevent abuse by commercial parties, including placing technical restrictions on automated querying.

We also ask that you:

+ *Make non-commercial use of the files* We designed Google Book Search for use by individuals, and we request that you use these files for personal, non-commercial purposes.

+ *Refrain from automated querying* Do not send automated queries of any sort to Google's system: If you are conducting research on machine translation, optical character recognition or other areas where access to a large amount of text is helpful, please contact us. We encourage the use of public domain materials for these purposes and may be able to help.

+ *Maintain attribution* The Google "watermark" you see on each file is essential for informing people about this project and helping them find additional materials through Google Book Search. Please do not remove it.

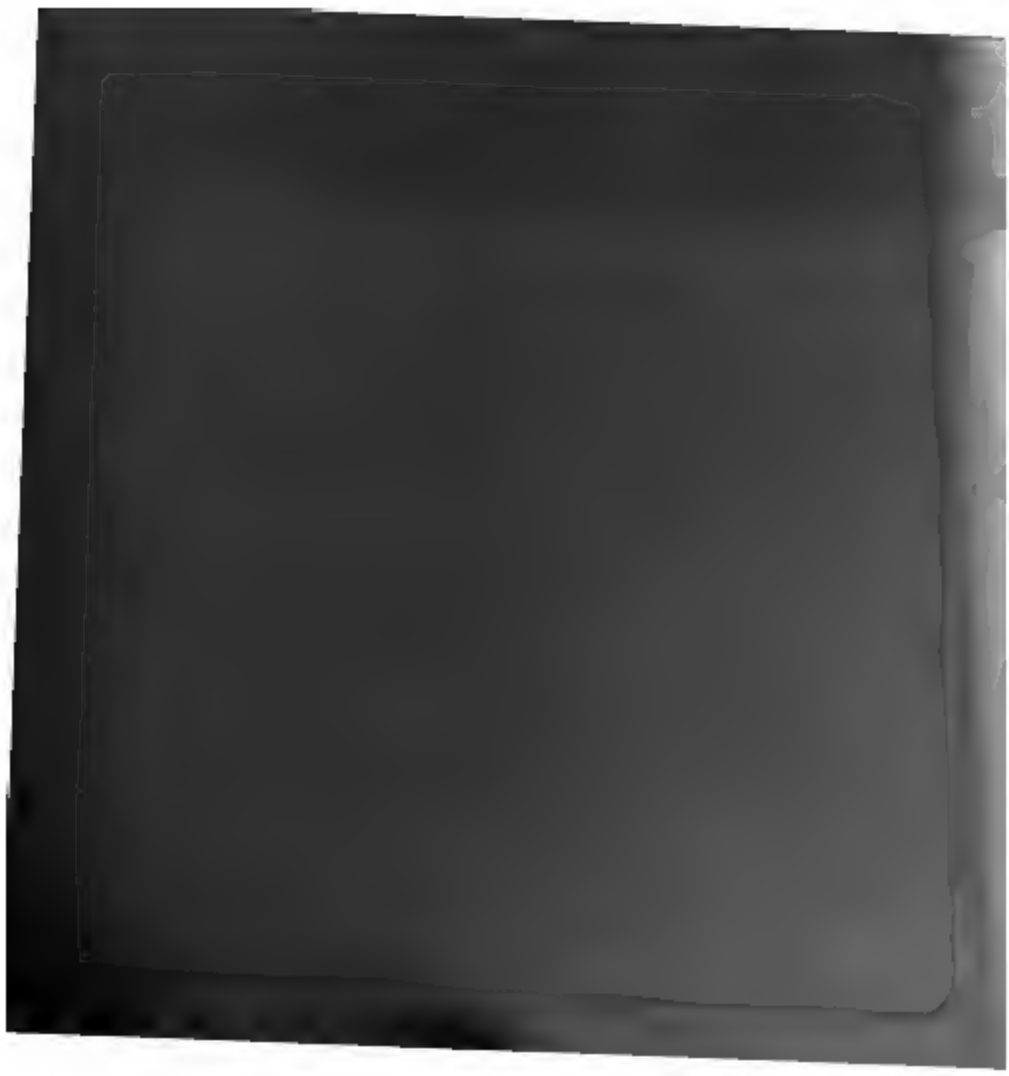
+ *Keep it legal* Whatever your use, remember that you are responsible for ensuring that what you are doing is legal. Do not assume that just because we believe a book is in the public domain for users in the United States, that the work is also in the public domain for users in other countries. Whether a book is still in copyright varies from country to country, and we can't offer guidance on whether any specific use of any specific book is allowed. Please do not assume that a book's appearance in Google Book Search means it can be used in any manner anywhere in the world. Copyright infringement liability can be quite severe.

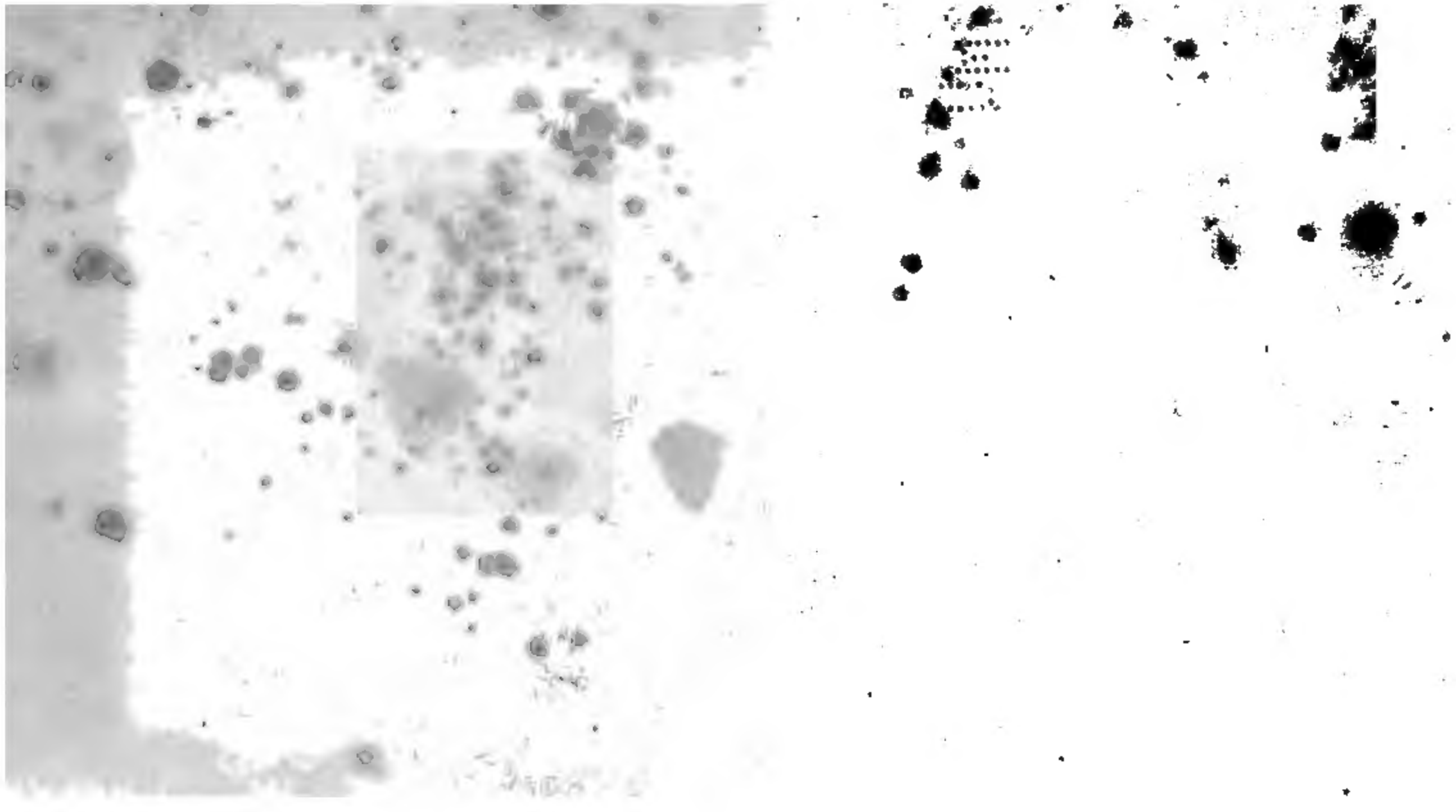
About Google Book Search

Google's mission is to organize the world's information and to make it universally accessible and useful. Google Book Search helps readers discover the world's books while helping authors and publishers reach new audiences. You can search through the full text of this book on the web at http://books.google.com/

A 476606

ARTES SCIENTIA VERITAS
LIBRARY OF THE
UNIVERSITY OF MICHIGAN
TURRIS
CIRCUMSPICE





Engraved by H.R. Cook with Mr. Smeaton's permission from a Miniature in the possession of Mad. Ulrich.

BARTOLOMO BERGAMI.

Published by T. Robins & Co. Ivy Lane, London, Aug.ts 1820.

TRIAL

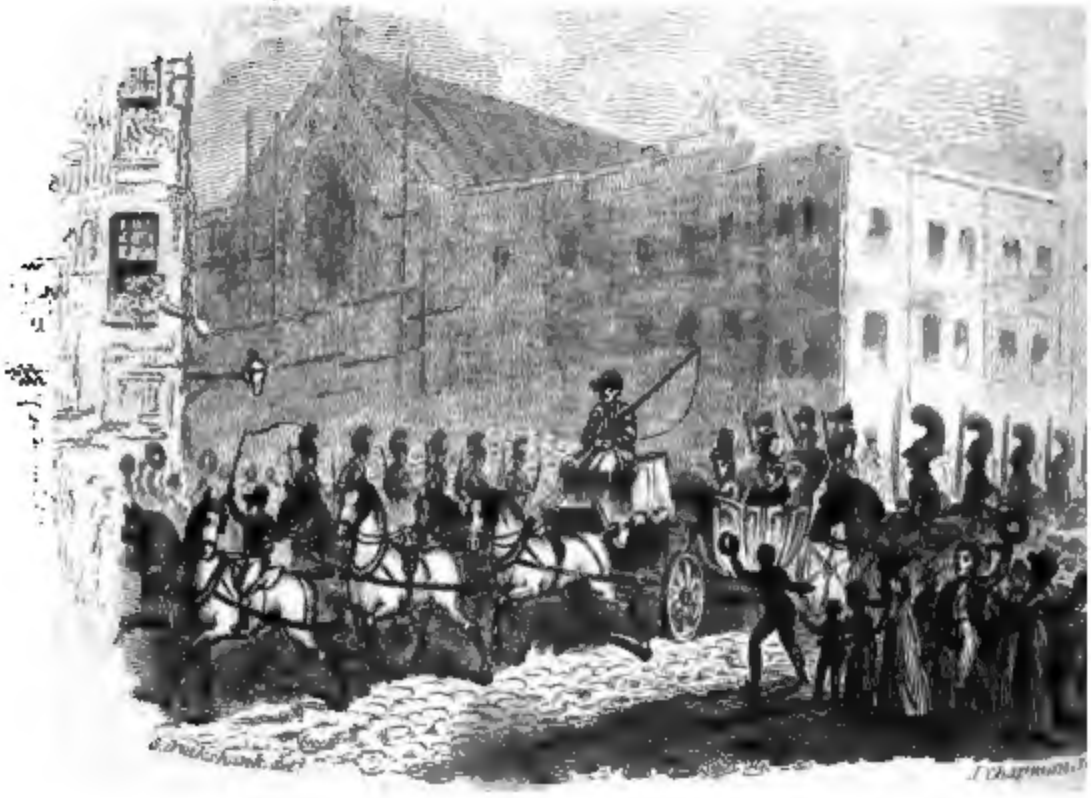
OF

Queen Caroline.

Edited

BY J. NIGHTINGALE.

THE DEFENCE PART I.



Queen Caroline returning from the House of Lor

LONDON.

J. ROBINS & Co. ALBION PRESS.

REPORT OF THE PROCEEDINGS

BEFORE THE

HOUSE OF LORDS,

ON A

Bill of Pains and Penalties

AGAINST

HER MAJESTY,

CAROLINE AMELIA ELIZABETH

QUEEN OF GREAT BRITAIN,

AND

CONSORT OF KING GEORGE THE FOURTH.

COLLATED WITH

THE JOURNALS OF THE HOUSE OF LORDS,

BY J. NIGHTINGALE,

Author of "Memoirs of the Public and Private Life of Her Majesty,"

&c. &c.

VOL. II.

THE DEFENCE, PART I.

London:

J. ROBINS AND CO. ALBION PRESS, IVY-LANE,
PATERNOSTER-ROW.

1821.

Libro
Pattison
8-4-25
12197

PROCEEDINGS

ON A

Bill of Pains and Penalties,

&c. &c.

THE DEFENCE.

First Day—October 3.

THIS day the House re-assembled, pursuant to adjournment. The peers began to take their places soon after nine o'clock, and at about seven minutes before ten the Lord-Chancellor entered, and seated himself on the woolsack.

Prayers were then read, and the House called over. Apologies were made for the non-attendance of several peers, in consequence of indisposition, or other causes. Among those absent were Lord Sheffield, the Bishop of Bangor, the Earl of Chichester, and the Duke of Newcastle. Lords Gambier, Harewood, and Hillsborough, did not answer on the call.

The Earl of Liverpool, before their lordships proceeded to the business of the day, wished to say a few words on a transaction which had been made the subject of conversation previously to the adjournment. He alluded to what had passed respecting a letter written by M. Marrietti, of Milan, to his son in this country, with reference to the alien bill. In consequence of what was stated in that letter, he had felt it to be his duty to write to Colonel Browne for an explanation of his conduct. Having received his answer, he would, with their lordships' permission, lay on the table the correspondence which had passed on the subject, and he was persuaded that the explanation would be found perfectly satisfactory. [Here some peers expressed a wish to hear the correspondence read.] He had no objection to state the contents of the papers. [The noble Lord then read several extracts.]

He trusted that, when these papers were examined, he would be found fully acquitted of the charge which had been made against him. It had been his wish to fulfil the instructions he had received; but he hoped he should never act inconsistent with justice.

The Earl of Liverpool, having laid the letters on the table, had not the slightest objection to their being printed, if such should be the pleasure of the House. If any further doubt should be entertained on this subject by any of their lordships, it would still be open to inquiry. It was Colonel Browne's wish that it should be probed to the bottom, and he was therefore most desirous that the fullest explanation should be given.

Lord Holland thought it necessary to observe, that though it should be perfectly true that the alien bill had never been mentioned by name to M. Marietti, that fact would be no answer to the general objections which existed to the alien bill on account of its nature, and of the effect it might have on this inquiry. On the contrary, what had passed served to confirm the apprehensions entertained of its effect, for the correspondence showed that that bill was looked to with alarm. He must also declare that the statement which the noble earl had made was not convincing to his mind; nor could any *ex-parte* statement be convincing to their lordships. Of Colonel Browne he knew nothing; but the noble lord had concluded with expressing his willingness to afford further explanations from that gentleman, if any doubt should remain. For his own part he must say, that in his mind no satisfactory explanation could be given without a full investigation of all that had passed by the examination of the parties. Laying the papers on the table was not sufficient for this purpose. The alien act, it was said, had not been mentioned; but their lordships must be aware that it was very possible to convey to men's minds, the apprehension of the penalty of that act without naming it, and it could not escape their observation that it was admitted there had been a conversation between a clerk and Colonel Browne relative to M. Marrietti. If, therefore, it was wished that the suspicion should be effectually done away, there must be a farther investigation. He would, therefore, reserve to himself the right of again calling their lordships attention to this subject when the printed papers should be on the table.

The Earl of Lauderdale suggested, that, before any further proceeding could with propriety take place, it would be necessary to get the letter which M. Marrietti had written to his son. That letter, he supposed, could be easily obtained; and it appeared to him indispensable, if a foundation was to be laid for future investigation. This first step, he thought, would be but justice to Colonel Browne, as well as to the parties in the present case. If, therefore, any inquiry was intended to be instituted, he hoped means would be taken to obtain that letter.

The papers were ordered to be printed, of which the following is a copy.

No. 1.

LETTER FROM MR. MARRIETTI THE ELDER, TO HIS SON IN LONDON.

Milan, Sept. 16.

Dearest Son,—I have received and read your letter of the 3d inst. Relatively to the threats conveyed to me by Mr. Browne, I must repeat to you once more the same observations I then made—that it is expedient to cut short with the great *(tagliar corto coi grande)*. They are always in the right. You have taken up the matter with much heat; in the main you are right, I feel that you are so, but you have carried it too far. It is true that Browne has expressly and repeatedly insisted with Mr. Albertonio that he should make known to you the dissatisfaction in that quarter towards you, and the danger of the Alien Bill which you were going to encounter. But, nevertheless, follow the judgment of your father, who knows by experience what is most expedient, and for the best, in similar cases. Abandon the object, and allow the controversy thus to terminate, since, by persons of mean condition or inferior rank, as you and I are, it is sufficiently well terminated by what has been already done. This instant a courier has arrived with letters of the 5th, and by the paragraph relative to Milan you may see how completely what Browne said here has been verified. You treated and spoke with the person alluded to, believing him quite a different character. I will speak with Peter at his return, as I have to-day spoken with Sperati; but whatever happens, what you said is right, that you, Peter, and Sperati, are well known, for persons of sense and character, and very different from that good for-nothing individual *(quel poco di buono)*. But the conclusion is, to keep every thing silent, and to prevent all publicity.

I salute you, your affectionate father.

No. 2.

LETTER FROM MR. MARRIETTI THE ELDER TO COLONEL BROWNE.

Milan, Sept. 19.

Most worthy Colonel,—I understood, with great concern, that your name has been comprised in a subject of conversation, which was supposed to have taken place between you and me relative to my son Joseph, at present in London. I think it therefore my duty to declare upon my honour, that no conversation ever passed between you and me, directly on this subject. If the expressions contained in a letter written by me to my son are somewhat strong, that must be ascribed to the affection which a lively interest in him created, and a

conformity to the advice I have always given to him—advice tending to manifest the necessity of adhering to the system adopted by me, never to mix in affairs foreign to one's own business. It grieves me exceedingly that an interpretation has been given to my letter opposite to my intentions—an interpretation which supplies materials to discussions irrelevant and ill founded. My displeasure in this case increases at seeing that a similar interpretation has caused doubts regarding the good faith of an individual whose distinguished and honourable character is known to me by long experience.

I consider you, moreover, incapable of making use of the threats which are attributed to you, as the British government is of executing them. In taking this mode of stating to you the sentiments with which I am animated in the present emergency, I experience the sweet satisfaction of fulfilling a duty which is incumbent upon me, and I take the opportunity of assuring you of my perfect esteem.

No. 3.

LETTER FROM MR. ALBERTONIO TO COLONEL BROWNE.

Milan, Sept. 19.

M. Colonel.—It is with regret proportioned to the respect which I bear you that I learn that the sense of a letter written by M. Marrietti to his son, has been so ill understood as to have imputed to you the communication of an intention on the part of the British Government to watch over the latter, and to send him out of England on account of his relations with Sacchini, a witness in the case of the Queen. I remember that you said to me, one morning that I was with you on business, that you had received a letter from England, stating the interference of Joseph Marrietti in this affair, and that you could not but regard such conduct as a little unwise, and foreign to his occupation in London. I cannot at the same time forget that I regarded this communication as a simple opinion emanating from yourself, and very far from the expression of authority or of menace. As regards what is said on the Alien Bill, of the provisions of which I am ignorant, it is a duty I owe to your character, always frank and loyal in all respect, to say that you never gave me the least reason to fear for the personal security or the protection of the said Joseph Marrietti.

I can add that I thought it my duty to beg M. Marrietti the father, to write to his son to advise him not to mix in an affair so foreign from his occupations, but to restrict himself to the wise and moderate conduct which has always distinguished him; and if in writing to him his father has made use of strong expressions, they ought in no wise to be ascribed to you Colonel Browne, but solely to the confidence and paternal affection which dictated them.

No. 4.

LETTER FROM MR. MARRIETTI THE ELDER, TO HIS SON IN LONDON.

Milan, Sept. 20.

Dearest Son,—I am ever the more confirmed in my maxim that it is right to have as little as possible to do with the great. I must say that the government in question has too strictly interpreted the letter I wrote you, and which has presented to the minister of police other motives than those which really originated it, since it is right to tell you that the English government has written an angry letter to Colonel Browne. He (Colonel Browne,) feeling himself much disquieted on this account, made such an application to Sig. D. Ciceri, and to Sig. Albertonio, that the former begged me to convey to the said Colonel Browne a letter of mine, which in a certain way *(in certa qual modo)*,

might justify him with his government from the too rigorous interpretation given to my former letter. And after having written and re-written, through the medium of Signor Ciceri, draughts of such a letter to be shown, the copy of which I inclose to your address was fixed upon. You will likewise find the copy of a letter which the said Col. Browne desired from the said Signor Albertonio, who gave me the account contained in the letters formerly addressed to you. To the honour of truth I have regarded what Col. Browne said through the medium of Signor Albertonio as an act of friendship, to prevent him from being brought into any danger. Nor could I ever have imagined that such a thing could have been of as much importance as it has proved. However that be, to facilitate the allaying of such a controversy, and to preserve amity with all, I have thought proper to second it, as you will perceive by the copy. They wished me to declare that my first letter was the result of my own simple suspicion, and had no ground to rest upon; but this I would not allow, because the having named Colonel Browne in the way I did would have been charged on me as a calumnious imputation; and therefore you will see in my letter sent yesterday to him (Col. Browne) that I mention my not having direct conversation with him, and derive my information from what he caused to be said to me by Sig. Albertonio. Regulate yourself therefore in every thing with the greatest prudence, in order not to incur other annoyances and other dissatisfactions, which can only produce evil to you.

Your affectionate Father.

The Earl of Darnley rose to move that an account of the money expended in the proceedings against her Majesty be laid before the House. He had before urged the propriety of their lordships calling for a statement of the expense incurred by these unnecessary and disgraceful proceedings. He had a right to expect that that account would be produced without delay, and certainly it was proper their lordships should be made acquainted with the extent of the sums already expended. Whatever the amount might be, he considered it as money misapplied, as much worse than thrown away. An account of the expenditure had been ordered by the House of Commons; and there could, therefore, be no pretext for refusing it to their lordships. The noble lord concluded by moving that an account of the money expended on the proceedings against the Queen be laid before the House.

The Earl of Liverpool could have no objection whatever in point of principle to the production of the account which the noble lord had moved for, if the House should now think fit to call for it. He must, however, say, that when he formerly opposed it, his objection did not apply to the production of the account, but to the time of producing it. He thought that the termination of the whole proceedings was the proper time for laying

before the House an account of the expenses. This was his opinion; but, having stated it, he had only to repeat, that if the general wish of the House appeared to be in favour of the motion, he should not oppose it.

The Marquis of Lansdown thought that the objection of the noble earl would be somewhat more reasonable if he had opposed the granting of an account of the expenses on the other side; but that account having been granted, he did not see any ground for refusing the present demand. What objection could apply to the stating the expenses for the one side which did not equally apply with regard to the other? He admitted, however, that the close of the proceedings was the proper time.

The Earl of Darnley concurred in what had been stated by his noble friend, but did not press his motion.

Counsel were then ordered to be called in, and the barristers and solicitors on each side entered and advanced to the bar.

Mr. Brougham began the defence by saying:—The time had now arrived when it became his duty to address himself to their lordships in defence of his illustrious client. But when the moment which he had so anxiously desired had at length come, he felt the greatest alarm. It was not, however, the august presence of that assembly which oppressed him, for he had often experienced its indulgence; neither was it the novelty of the proceedings that embarrassed him, for to novelty the mind gradually gets accustomed, and becomes at last reconciled to the most extraordinary deviations; nor was it even the great importance and magnitude of the cause he had to defend which perplexed him, for he was borne up in his task with that conviction of its justice, and of the innocence of his illustrious client, which he shared in common with all mankind. But it was even that very conviction which alarmed him—it was the feeling that it operated so zealously and so rightly which now dismayed him, and made him appear before their lordships impressed with the fear that injustice might be done to the case by his unworthy mode of handling it. While, however, other counsel have trembled for fear of guilt in a client, or have been chilled by indifference, or have had to dread the weight of public opinion against them, he had none of these disadvantages to apprehend. Public opinion had already decided on the case, and he had nothing to fear but the consequences of perjury.

H. BROUGHAM, ESQ.M.P.

His Majesty's Attorney General

The apprehension which oppressed him was, that his feeble exertions might have the effect of casting, for the first time, this great cause into doubt, and turning against him the reproaches of those millions of his countrymen now jealously watching the result of these proceedings, and who might perhaps impute it to him if their lordships should reverse that judgment which they had already pronounced upon the charges in the present state of the case. In this situation, with all the time which their lordships had afforded him for reflection, it was difficult for him to compose his mind to the proper discharge of his professional duty; for he was still weighed down with the sense of the heavy responsibility of the task he had undertaken. He must also observe, that it was no light addition to the anxiety of this feeling to forsee that, before these proceedings closed, it might be his unexampled lot to act in a way which might appear inconsistent with the duty of a good subject—to state what might make some call in question his loyalty, though that was not what he anticipated from their lordships. He would now remind their lordships that his illustrious client, then Caroline of Brunswick, arrived in this country in the year 1795; she was the neice of the Sovereign, and the intended consort of the heir-apparent, and was herself not far removed from the succession to the crown. But he now went back to that period solely for the purpose of passing over all that had elapsed from her arrival until her departure in 1814; and he rejoiced that the most faithful discharge of his duty permitted him to take this course. But he could not do this without pausing for a moment to vindicate himself against an imputation to which he might not unnaturally be exposed in consequence of the course which he pursued, and to assure their lordships that the cause of the Queen, as it appeared in evidence, did not require recrimination at present. The evidence against her Majesty, he felt, did not now call upon him to utter one whisper against the conduct of her illustrious consort, and he solemnly assured their lordships that but for that conviction his lips would not at that time be closed. In this discretionary exercise of his duty, in postponing the case which he possessed, their lordships must know that he was waving a right which belonged to him, and abstaining from the use

of materials which were unquestionably his own. If, however, he should hereafter think it advisable to exercise this right—if he should think it necessary to avail himself of means which he at present declined using—let it not be vainly supposed that he, or even the youngest member in the profession, would hesitate to resort to such a course, and fearlessly perform his duty. He had before stated to their lordships—but surely of that it was scarcely necessary to remind them—that an advocate, in the discharge of his duty, knows but one person in all the world, and that person is his client. To save that client by all means and expedients, and at all hazards and costs to other persons, and, among them, to himself, is his first and only duty; and in performing this duty he must not regard the alarm, the torments, the destruction which he may bring upon others. Separating the duty of a patriot from that of an advocate, he must go on reckless of consequences, though it should be his unhappy fate to involve his country in confusion. He felt, however, that, were he now to enter on the branch of his case to which he had alluded, he should seem to quit the higher ground of innocence on which he was proud to stand. He would seem to seek to justify, not to resist the charges, and plead not guilty—to acknowledge and extenuate offences, levities, and indiscretions, the very least of which he came there to deny. For it was foul and false to say as some of those who, under pretence of their duty to God, forgot their duty to their fellow-creatures, had dared to say, and they knew it to be false and foul when they asserted it—that any improprieties were admitted to have been proved against the Queen. He denied that any indiscretions were admitted. He contended not only that the evidence did not prove them, but that it disproved them. One admission he did make; and let the learned counsel who supported the bill take it, and make the most they could of it, for it was the only admission that would be made to them. He granted that her majesty had left this country for Italy; he granted that while abroad she had moved in society chiefly foreign, inferior probably to that which, under happier circumstances, she had known—and very different, certainly, from that which she had previously enjoyed in this country. He admitted, that when the

Queen was here, and happy, not, indeed, in the protection of her own family, but in the friendship of their lordships and their families, that she moved in more choice and dignified society than any in which she has since had the good fortune to be placed. The charge against her was—that she went to Italy, and that, instead of associating with the peers and peeresses of England, she took to her society only foreigners. He fully admitted that her Majesty had been under the necessity of associating with Italian nobility, and sometimes with the commonalty of that country. But who are they that bring this charge? Others might blame her Majesty for going abroad—others might say that she had experienced the consequences of leaving this country and associating with foreigners; but it was not for their lordships to make this charge. They were the very last persons who should fling this at the Queen; for they who now presumed to sit as her judges were the very witnesses she must call to acquit her of this charge. They were, in fact, not only the witnesses to acquit, but had been the cause of this single admitted fact. While her Majesty resided in this country she courteously threw open her doors to the peers of England and their families. She graciously condescended to court their society, and, as long as it suited certain purposes which were not hers—as long as it served interests in which she had no concern—as long as she could be made subservient to the ambitious views of others—she did not court in vain. But when a change took place—when those interests were to be retained which she had been made the instrument of grasping, when that lust of power and place to which she was doomed to fall a victim had been satisfied—then in vain did she open her doors to their lordships and their families; then it was that those whom she had hitherto condescended to court—and it was no humiliation to court the first society in the world—abandoned her. Her Majesty was then reduced to the alternative of begging society in this country as a favour, or of leaving it. She could not, by humbling herself, have obtained the society of British peeresses, and must have sought that of other classes, or gone abroad. Such, then, being the circumstances, it was not in the presence of their lordships that he expected to hear the Queen reproached for going abroad. It was not here that he had thought any one would have dared to lift up his voice,

and make it a topic of censure that the Princess of Wales had associated with foreigners—with some whom, perhaps, she might say she would not, and ought not to have chosen under other and happier circumstances. Up to this period her Majesty had still one pleasure left. She enjoyed, not indeed the society, but the affection and grateful respect of her beloved daughter. An event, of all things most grateful to a mother's feelings, soon after took place—the marriage of her beloved daughter. Of this event her Majesty received no announcement. Though all England was looking towards the approaching event with the deep interest it was so well calculated to excite—though all Europe was looking at it with the liveliest feelings, and with all the knowledge of the interesting event which was about to take place—still there was one person, and one only, left in iguorance of the whole proceeding, and that solitary individual was the mother of the bride. All that she had done up to that time to deserve this treatment was, that she had been charged, and afterwards acquitted, of an alleged crime, and her perjured persecutors rendered infamous; and this treatment she received from his Majesty's servants, some of whom had risen in power by having made her a tool to promote their own interests. The Queen heard of the event of the approaching marriage of her only child accidentally; she heard it from a courier, who was going from this country charged with a notification of it to his Holiness the Pope—that ancient, intimate, and much valued ally of the Protestant Crown of England. The marriage of her daughter took place; it excited the sensations which it was so well calculated to produce, as the promised source of so much happiness to the Royal Family and the nation. The whole of that period passed without the slightest communication being made to the Queen. The period of the Princess Charlotte's *accouchement* arrived; her mother was then fearful of opening a communication upon the subject, knowing the agitation it might create in the mind of her beloved daughter. She knew at such a moment the perilous results that might follow to the beloved object of her maternal solicitude, were she at that period to create any agitation in her mind upon a topic, which might expose her to a quarrel with power and authority on the one hand, or combat her peace and affection on the other. An event followed which destroyed for ever the hopes of the coun-

try—an event which filled all England with grief and sorrow, and with a mourning in which all their foreign neighbours unaffectedly sympathized. With a due regard for the sympathy of foreign powers, the sad tidings were rapidly conveyed to each of the allies of Great Britain, to every power and state connected with her, and to some that were not. But to the Queen, again, no communication was made. She who, of all the world, had the deepest interest in the event—she whose feelings must necessarily be, of all mankind, the most overwhelmed and stunned by the awful communication, in any manner in which it could be made—was left to be so stunned and overwhelmed by hearing by accident of the death of her daughter, as she had by accident heard before of her marriage. If she had not heard the dreadful news by accident, she would ere long have felt its occurrence; for the death of the deceased daughter was soon conveyed to the agonized mother by the issuing of the Milan commission, and the commencement of that process against her honour, station, and character. How wretched was not the lot of this lady, as displayed in al the events of her chequered life! It was always her sad fate to lose her best stay, her strongest and surest protector, when danger threatened her; and, by a coincidence most miraculous in her eventful history, not one of her intrepid defenders was ever withdrawn from her, without that loss being the immediate signal for the renewal of momentous attacks upon her honour and her life. Mr. Pitt, who had been her constant friend and protector, died in 1806. A few weeks after that event took place the first attack was levelled at her. Mr. Pitt left her as a legacy to Mr. Perceval, who became her best, her most undaunted and firmest protector. But no sooner had the hand of an assassin laid prostrate that minister, than her Royal Highness felt the force of the blow by the commencement of a renewed attack, though she had but just been borne through the last by Mr Perceval's skilful and powerful defence of her character. Mr. Whitbread then undertook her protection, but soon that melancholy catastrophe happened which all good men of every political party in the state, he believed, sincerely and universally lamented: then came with Mr. Whitbread's dreadful loss the murmuring of that storm which was so soon to burst with all its tempestuous fury upon her hapless and devoted head. Her daughter still loved, and was her friend; her

enemies were afraid to strike, for they, in the wisdom of the world, worshipped the rising Sun. But when she lost that amiable and beloved daughter, she had no protector: her enemies had nothing to dread: innocent or guilty, there was no hope, and she yielded to the entreaty of those who advised her residence out of this country. Who, indeed, could love persecution so stedfastly, as to stay and brave its renewal and continuance, and harass the feelings of the only one she loved dearly, by combating such repeated attacks, which were still reiterated after the record of the fullest acquittal? It was, however, reserved for the Milan commission to concentrate and condense all the threatening clouds which were prepared to burst upon her ill-fated head; and, as if it were utterly impossible that the Queen could lose a single protector without the loss being instantaneously folowed by the commencement of some important step against her, the same day which saw the remains of her venerable Sovereign entombed—of that beloved Sovereign who was from the outset her constant father and friend—that same sun which shone upon the Monarch's tomb ushered into the palace of his illustrious son and successor one of the perjured witnesses who was brought over to depose against her Majesty's life. Why did he mention these melancholy facts to their lordships? Was it to illustrate the trite remark of the miserable subserviency of trading politicians? Was it to show that Spite was the twin-brother of Ingratitude, and that no favour could bind those whose nature was peevish and bad?—that favours conferred, only made base passions more malignant against a benefactor? No; to dwell upon so trite a remark would indeed be futile and unnecessary in the presence of their lordships. But he said it to impress upon their lordships a deep sense of his own unworthiness to perform this duty to the Queen, an unfeigned consciousness of his inability to follow such powerful men as he had named in the defence of this illustrious individual, and to assure their lordships how deeply sensible he was of his want of power to make for his illustrious client that conclusive and irresistible defence on this occasion, which, were they alive and filling their wonted duty, they would not fail to do, to the utter discomfiture of her Maesty's enemies. Before he proceeded further in the reults to which he was prepared to contend the details of the evidence in this case must lead, he must beg to call their lordships' attention to what that

evidence did not do. He meant to point out the parts of his learned friend the Attorney-General's opening statement, which, instead of receiving support from the evidence, were either not touched upon by it at all, or actually negatived out of the mouths of his own witnesses. His learned friend should speak in his own words his statement of the plan and construction of his own case. It was most material also for them to bear in mind, that his learned friend was in his statement directed by the instructions which were put into his hands, for his speech ought, of course, to be considered as the mere transcript of his instructions, the mere outline of the documents submitted to him—documents prepared too in a way which nobody need to be at any loss to guess. His learned friend, nearly in his commencement, used these words—"I will most conscientiously take care to state nothing which in my conscience I do not think—I do not believe—I shall be able to substantiate by proof." He need not to have so strongly appealed to his conscience, for he (Mr. Brougham) fully believed him when he said he spoke from his instructions; he readily believed that he spoke from his brief, and said nothing else but what he found in his brief. He believed that at the time his learned friend made his opening statement; he equally believed it now, when he had failed in substantiating that statement by proof. He knew full well that there was no other way for that statement to have got into his learned friend's brief but out of the mouths of the witnesses, who at first had not hesitated to garnish their stories, though they were not afterwards found hardy enough to adhere to their falsehoods when brought to their lordships bar. When they came to the point, they were scared from their first statements. He would read a few samples of the difference between the Attorney-General's statement and his subsequent evidence, for the purpose of showing the value at which their lordships ought to estimate that evidence. In the first, his learned friend had pledged himself that the evidence of her Majesty's alleged impropriety of conduct would be brought down almost to the present time; but subsequently he did not attempt to bring it down during any part of the last three years, that is to say, during a space of time exactly equal to the other space over which his evidence actually adduced extended. Here he begged leave to revert to the following passages of the Attorney-Gene-

ral's opening statement, which he took from the short-hand writers' notes :—"On the arrival of her Majesty's suite at Naples, it was so arranged that her Majesty's sleeping-room was at an opposite side of the house to that of her menial domestics, among whom was her courier. On the first night of her Majesty's arrival at Naples (the 8th Nov.), to which he had called their lordships attention, this arrangement was continued. Bergami slept in that part of the house which had been prepared for the domestics, and young Austin slept in her Majesty's apartment. But on the following morning, November the 9th, the servants of the establishment learned with some surprise, because no reason appeared to them for the change, that Bergami was no longer to sleep in that part of the house where he had slept the night preceding; but that it was her Majesty's pleasure that he should sleep in a room from which there was a free communication with that of her Majesty, by means of a corridor or passage." "Upon the evening of the 9th of November her Majesty went to the Opera at Naples, but it was observed that she returned home at a very early hour. The person who waited upon her, on her return, was the maid-servant whose duty it was particularly to attend to her bedroom." "The female servant retired; but not without those suspicions which the circumstances he had mentioned were calculated to excite in the mind of any individual. She knew, at the time, that Bergami was in his bed-room, for this was the first night of his having taken advantage of the arrangement which had been previously made. It was quite new, on the part of the Princess, to dismiss her attendants so abruptly; and when her conduct and demeanour were considered, suspicions arose which it was impossible to exclude. But if suspicions were excited then, how were they confirmed on the following morning? If I prove (said the Attorney-General) by evidence at your lordships' bar what I am now going to state, I submit that there will then be before your lordships, evidence on which no jury would hesitate to decide that adultery had that night been committed between this exalted person and her menial servant; for, upon the following morning, on observing the state of her room, it was evident that her Majesty had not slept in her own bed that night. Her bed remained in the same state as on the preceding evening, while the bed of the other person had, to

those who saw it, clear and decisive marks of two persons having slept in it." Their Lordships would perceive, that every one of these assertions in his learned friend's speech rose one above the other, in successive height, according to their relative importance, and that even the lowest of them it was of essential importance to sustain by evidence for his case. But every one of them he not only failed to prove, as he promised to prove, by evidence, but he actually negatived some of the most material of them by the witness whom he produced at the bar evidently for the purpose of substantiating them. When the witness De Mont was at the bar, he repeatedly asked her respecting these parts of his statement; but she who was destined to tell of them all denied any knowledge of where the Queen went on the particular night alluded to. She denied that she knew where the Queen went after she left her bedroom. When asked whether the Queen on that particular morning rose at her usual hour, her answer, so far from confirming the opening statement, was affirmative of her Majesty having got up about her usual hour. Nor did she know of any body having called to pay visits in the course of that morning, though pointedly asked, for the purpose of speaking to all the facts so forcibly urged in the Attorney-General's statement. In the next place, when either the Attorney-General or his colleague, the Solicitor-General, spoke of the passing occurrences in Italy, they evidently spoke from their instructions, and not from any personal knowledge of their own upon the manners of the country; for symptoms of having ever been in Italy, they showed none. They had clearly never been there, or else they could not have spoken of the manners of Italy as they had done. For instance, see what they had said about the masquerade and the Casino, which was the sort of society from which Col. Browne was lately ejected: "Who ever," said the Solicitor-General, "was seen for any proper purpose going to a masquerade in this sort of disguise?" What a pity that her Majesty did not, to suit the view of his learned friends, go to the masquerade in a state coach, with coachmen in splendid liveries, with lacquies bedizened out from head to foot, with all the pomp and show of state ceremony. What pity she did not, on such an occasion, adopt this suitable and becoming state paraphernalia, instead of quitting her house in a private

coach, instead of going out through a back-door. Why had she not the eyes of the world upon her when she went forth, instead of quietly passing without pomp or show? It was a wonder that his learned friend did not go on and say, "Why did she go in a domino and disguised cap to a masquerade? who ever before heard of this disguise on such an occasion?" How little did his learned friends know, when they talked in this manner, of the royal recreations of Murat's court! He would refer to another part of his learned friend's speech, where he said that "During her Majesty's residence at Naples another circumstance took place to which it was his duty to call their lordships' attention. A masquerade was held at a theatre called, he believed, the Theatre of St. Charles. To this entertainment her Majesty rose to go in a very extraordinary manner, accompanied, not by Lady Charlotte Lindsay or Lady Elizabeth Forbes, or even by any of the gentlemen of her suite, but by the courier Bergami and a femme de chambre of the name of De Mont. The dresses chosen by her Majesty for herself and her companions to appear in on this occasion were, as he was instructed, of a description so indecent as to attract the attention of the whole company, and to call forth marks of general disapprobation. Indeed, so strong was the disapprobation, that her Majesty, finding she was recognised, was under the necessity of withdrawing with her companions from the entertainment, and returning home." Now, what did Madame de Monte say, when called upon to describe this "most indecent and disgusting dress" of her Majesty? Why, all that the perseverance and ingenuity of his learned friend could extract from the witness (no very unwilling one) was, that the Princess, on that occasion, wore what she (De Mont) called "ugly masks;" for, strange as it might appear to his learned friends, she went to the masquerade in a mask! Indeed, if she had not gone so, she would have had no business there. He should, he feared, greatly fatigue their lordships, were he to go over the whole of the numerous parts of his learned friend the Attorney-General's speech which were left utterly unproved by the evidence. They would recollect that the Attorney-General stated he had evidence to prove that the Queen and Bergami were for a considerable time locked up together in a room at Messina in the night, and that the sound of kisses was heard from

within: it now turned out, that only voices were heard, and of whom the witness could not say! It was also stated, that on the 12th of April—(for their lordships would observe his learned friend never forgot dates—his particularity was in this respect remarkable;)—on the 12th of April, at Sadouane, he had stated that the access to the Princess's room was through Bergami's, in which no bed was. But passing over this and a number of ineffectual attempts to obtain answers from De Mont, in conformity with the statement, he would recall their lordships' attention to the statement of the allegations which it was intended through Majochi to substantiate. His learned friend had said "that the Princess remained in Bergami's bedroom a considerable time, while he was sleeping there, and the witness then distinctly heard the sound of kissing." Now what did Majochi himself say in this part of his testimony? He distinctly said "that she remained the first time about ten minutes, and at another time 15 minutes," and he only heard "whispering." Then, again, in Sacchi's evidence, who was the courier that brought the answer back to Milan, which he was to deliver to Bergami, by Bergami's own order, at whatever hour of the night he returned,—his learned friend stated, that the courier, (which courier was Sacchi,) on repairing to Bergami's bedroom, did not find him there, but soon after observed him coming from the direction of the Princess's room; and that Bergami then told him the cause of his being out of bed then was, having heard his child cry, and that he had gone to see what was the matter. But when Sacchi was brought to give his evidence, not a word of this came out in answer to the repeated questions put to him to elicit such a corroboration of the statement. Then came next in order the disgraceful scene which was represented to have occurred at the Barona; so disgraceful, that his learned friend declared it made the place in which it was transacted deserve rather the name of a brothel than of a palace. His learned friend asserted, when he gave it this designation, that he was prepared with the most entire and satifactory proof to show, that so disgusting was the scene, the servants became shocked by what they were obliged to witness. Her Majesty, according to the Attorney-General, had become at this time deserted by all the English persons in her suite. These were the words of his learned friend:—"It was

certainly very singular, that on leaving Naples her Majesty was abandoned by the greater part of her English suite. Mr. St. Leger, it was true, had quitted her before; he left her at Brunswick, and he therefore admitted that no inference could be drawn from his case. But, on her Majesty's departure from Naples. Lady Charlotte Lindsay and Lady Elizabeth Forbes were left behind. No, he begged pardon, Lady Charlotte Lindsay did not leave the Queen until they were at Leghorn, in March, 1815. At Naples however, Lady Elizabeth Forbes, Sir William Gell, the Honourable Mr. Craven, and Capt. Este, certainly did separate from her. Thus, of the seven persons who composed her Majesty's suite when she left this country, no less than four left her in Naples." But his learned friend forgot that, of these persons whom he so hastily dismissed from her Majesty's service at Naples, she was afterwards joined by Lady Charlotte Lindsay. How did it happen, he would ask, if the Princess's servants had become so shocked at the occurrences at Barona, that they never communicated their astonishment to the servants of Lady Charlotte Lindsay, with whom they were in hourly communication? Was it likely that such feeling, if it pervaded the servants, would be kept as a grave-like secret from first to last by those who were the depositaries of it? But, after Lady Charlotte Lindsay joined the Princess, Lord and Lady Glenbervie came, Lady Charlotte Campbell came, and others equally honourable and equally virtuous: and yet, notwithstanding the servants were, as it were, astounded by the practices then occurring at the Barona, there was not one whisper to the servants of the English personages of rank who rejoined her Royal Highness as part of her suite. These joined her Royal Highness after the scenes at Barona; some met the Princess at Naples, some joined at Rome, others at Leghorn. Aye, at even much later periods her Majesty was attended by illustrious company. The Queen's company, in fact, became rather improved than neglected, at the time alluded to. She was constantly received, and with suitable respect, after her return from the long voyage. She was courteously received by the legitimate Sovereign of Baden, and the still more legitimate Bourbon of Palermo. She was courteously treated by the legitimate Stuarts of Sardinia, whose legitimacy stands contradistinguished from the illegiti-

macy of the family whose possession of the throne of these realms stands upon the basis of public liberty and public rights. She was received even by a Prince who ranks higher in point of legitimacy—the Bey of Tunis. (A laugh). She was also received with the same respect by the representative of the King at Constantinople. In fact, in all those countries she met with that reception which was due to her rank and consideration. He trusted their lordships would suffer him now to dwell more minutely upon the statement of the case as opened by the Attorney-General, and the case as proved by his learned friend. The case, as opened, it was of no little importance to dwell upon. Was it not marvellous to have such a case, and to be capable of adducing in support of it such witnesses? Was it not, in the next place, more marvellous to find that such a case was left so miserably short, as it must be admitted this case was left, in comparison between the evidence and the opening statement? In the ordinary cases of criminal conversation, the two very witnesses who of all others were deemed of the utmost importance were the female's woman in attendance, and the man's body-servant or serving-man. These were the servants who must know the fact, if the criminal conversation took place. They had these witnesses here; they therefore had their case under the most favourable auspices—they had the man's valet, and the woman's maid. These, in an ordinary case, would be deemed conclusive witnesses. The man's servant was rarely to be had for the prosecution, from the nature and manner of the action; but if counsel could get the female servant, they generally deemed their case proved. They had also, if their case were true, the very extraordinary, unaccountable, and unprecedented advantage of having parties to proceed against for the fact, who, from beginning to end, concealed no part of their conduct under the slightest or even most flimsey disguise. Throughout the whole of the proceedings these parties, knowing they were watched, discarded all schemes of secrecy—showed an utter carelessness of the persons who were watching them—threw off all ordinary trammels—banished from their practice every suggestion of decorum and prudence—and, in fact, gave themselves up to the gratification and indulgence of their passion, with that warmth which is only found

in the hey-day of young blood, and with that utter indifference to reserve which marks the conduct of those who are joined together in those bonds which make the indulgence of their passion rather a virtue than a crime. There was no caution or circumspection here. If they believed any one part of the evidence relied upon by his learned friend the Solicitor-General, there was not only no caution used by the parties to prevent discovery, but every thing which the most malignant accuser could require to fortify his case was left open by the parties who were to suffer by the proof. He entreated their lordships to observe how every part of the case was left open to this remark; and, after having entreated them to bear it in mind, and apply it hereafter when they came to consider the evidence, he should simply observe, that just in proportion as the conduct became criminal, and of the most unquestionably atrocious nature and character, exactly in the same proportion would the parties be found to have taken especial care that during their commission, of the act they had present, and seeing it, good witnesses to detect and expose them for their conduct. Thus it would be seen that they were sitting together in familiar proximity. The act is also seen with the addition of the lady's arm round the neck, or behind the back, of her paramour. When it is necessary to trace their conduct a step higher in the scale of criminality, and exhibit the parties in such an attitude as to leave no room for explanation or equivocation, the act is done, not in a corner, apart from any scrutinizing eye, but in a villa filled by servants, and where hundreds of workmen are at the very time employed; and all this too is done, all this saluting is performed, in open day, and exposed to the general gaze. Especial pains are taken that the slander shall not be secret, but, on the contrary, that it shall be liable to the most widely-diffused publicity. It would not do that Bergami, upon his departure on a journey from the Queen, while in Sicily, should salute her Majesty before the servant entered the room. No; the exhibition of that act was reserved for the presence of a servant to tell it. The same was the case in the story about Terracina. All the parties were on deck; they could not take the salute in their own cabin; *it must be delayed* until Majochi enters to witness it.

Even the act of sitting on Bergami's knee upon the deck is adjusted in the presence of the crew and passengers. Care is taken that it shall be directly seen by at least eleven persons. The frequent and free saluting on the deck, which, when committed in a particular manner, must leave little doubt of the subsisting intercourse between the parties—even that must be done, not at night, nor in the dark and privacy of the cabin, but before every body, and in open day. But the case which their lordships were called upon to believe was not left there, for the parties were represented as having taken the indispensable precaution of granting even the last favours within the hearing of witnesses. They were described as habitually sleeping together in all their journeys by land and sea. She could not even retire to change her dress but Bergami must attend in the dressing-room—first, of course, the parties taking care to have a witness present to speak to the fact. He could not dwell with calmness upon the representation of these disgusting scenes, with the peculiar features of enormity which were attached to them, without repeating, that exactly in proportion as they partook of the most aggravated character, and denoted an utter contamination of the mind, precisely in that extent were increased pains taken that they should not be done in a corner. No hidden places or recesses were selected or chosen by the parties for the free and safe indulgence of their passion from the prying eyes of those about them. They sought no secluded chamber in those places of abomination so well known upon the Continent, and which are degraded under the dignified name of palaces. The parties took no opportunity of seeking those hidden haunts of lust which might have been so hastily found. They sought no island among those which were the seat of such scenes in the times of antiquity, when society was less scrupulous of the conduct of its members than now. They sought no haunts among the Capreæ of old, to revive in them those lascivious acts of which they were the ancient scene. They acted, on the contrary, before witnesses—they conducted themselves in open day-light, in the face of couriers, servants, and passengers. Was such folly ever known before in the history of human acts? Was ever folly so extravagant disclosed in the most unthinking acts of that youthful period when the blood boils

in the veins? Was ever, even then, in that proverbial period of thoughtless levity, a being so recklessly insane as to have acted in this manner? There never was, he believed, such an instance in the history of human passions. The conduct of the parties did not stop here; for, lest the witnesses who saw the acts might not easily be forthcoming for the enemies of the accused, they were every one of them discarded by the person who was to be the victim of their testimony. They were successively dismissed either for cause or without it—indeed, he might say, most of them without it, for the cause stated was of the flimsiest kind. This dismissal was followed by a positive refusal to take them back, when every human inducement would have prompted the Queen to have permitted their return, if she had any reason to dread their resentment. Each of the witnesses who had to perform a part in the Italian drama was successively dismissed, and this at a time when the Queen was aware of the proceedings that were pending against her, and of course was interested in whatever testimony they had to give. But was this all that the Queen had done to show her utter disregard for the efforts of her accusers? Did she not face them, when she might have easily and honourably avoided their malice? When that opportunity was afforded her Majesty, she was counselled and implored to pause and reflect upon the opportunity then offered to her—she was warned to consider before she faced her enemies—she was entreated to bethink herself well before she ran into her case: and what had been her conduct? Her instant determination was to come here to England without delay, and confront her enemies. Up to the last moment her conduct displayed the same magnanimity: up to the last moment she refused the offer of a magnificent retreat, which would have enabled her not only to indulge whatever propensities she pleased without control, but even to move abroad with the safeguard and vindication of her honour formally pronounced by the two Houses of Parliament. If this were the conduct of guilt, then all he could say was, that it was the most extraordinary instance of its display which he had ever heard or read of. If these were the means to which vice adhered, then he could only say they were not to be traced to any known spring of human action. With respect to the manner in which

the proof of the case had been left, he was bound to remark, that it was left in such a manner as would be deemed fatal in any ordinary case. Such a statement was unparalleled. Nothing could be more distant from his intention than to ascribe a motive too like that motive which was commonly attributed on the other side. Far was it from him to attribute the formation of a conspiracy against the life or dignity of the Queen to any individuals, however high in rank or notorious in power: but if an irregular course had been pursued, to whose account was that irregularity to be laid? On the contrary, all the specimens of their forthcoming evidence were, as far as already admitted or understood, altogether equivocal and ambiguous. Well might their lordships cordially agree to this measure, if they looked not to after-consequences. He would not say that it was a conspiracy against her Majesty; but he would say that no set of conspirators (be they who they might) could have marked out a common story answerable to their purpose other than that which had been pursued through the entire preparations of the business. They could not do better than get rid of this bill of pains and penalties. Their lordships would of course look to the evidence, and examine and sift it, as to its solid worth, long before they could form a disposition (to say nothing of judgment), independent of what had appeared in evidence at their own bar. Now then, when he ventured to allude to what was called on the other side minute and circumstantial evidence—when he approached that subject of all delicacy—those points on which the Attorney-General seemed to feel so sore—on the first blush of such evidence; let the merits of this evidence be fairly discussed, let it be examined, let the whole matter be fairly canvassed. But if it were possible that a grave and serious design were accidentally formed amongst any set of individuals; if it were possible that a design (far was it from him to say a conspiracy)—if it were possible for a design, and not a conspiracy, to be so formed; if it were possible that, with an artificial avoidance of that name, all its effects were realised, how then would their lordships be disposed to look at this mighty question? What was the general character of that evidence? Their lordships well knew—the world at large also knew—that the first act, the prime resource, of

those who directed their aims against domestic happiness, was the corrupting of menial servants. He did not charge that description of persons with any general disposition to commit crimes; it was enough for him to bring before their lordships the undoubted, the incontrovertible evidence, although facts were sworn to, which facts in their own nature admitted of no disproof. Never before had the private peace of any individual been so assailed. It was not usual thus to expose the domestic circumstances of any family, or to trespass upon private comfort in a way so careless. Undoubtedly their lordships had been well advised, well persuaded: they had indisputably proceeded on reasons equally firm and obvious when they excluded her Majesty from some of those advantages possessed by every other subject of this realm. Evidence such as it was, that had already been produced, was of a description quite singular, exclusive, and appropriate. The witnesses produced at their lordships' bar, in support of the charges made by the Attorney-General, were indeed involved in a sad confusion. Their lordships would have the kindness and the attention to dwell on this part of the subject. Were menial servants—were persons who had for a long time acted in that capacity—were these (and he pressed the question on their lordships) fair witnesses in a court of equity, or in any assembly proceeding upon moral rules? He was, he could assure their lordships, as much disposed to respect the sanctimony of an oath, even when taken by foreigners, as any individual in the land. He respected the sanction when it came from the mouths of his countrymen, and he respected it also from the mouths of foreigners. But if there was a community in Europe stigmatized and degraded below the average estimation of European communities—and he could assure them that he meant no disparagement to the Italian character in general—many were the proofs, or testimonies, on this occasion. What! were the peers of England to be thus engaged, day after day, and month after month? What was the real character of this evidence? The witnesses advanced, and shown at the bar of their lordships, were witnesses extracted from a foreign land, imported at a prodigious expense, and under none of those restraints which pressed upon witnesses chosen from the mass of the community at home, and retiring, after making their

depositions, into the bosom of that society. This was not the sort of testimony with which the people of England would be satisfied; it was not testimony that could satisfy their lordships. He knew them too well to suppose that feeble or imperfect evidence would ever be received by them as a fair ground of proceeding with a bill of "pains and penalties." Such a proceeding could only be compared or assimilated to prosecutions and trials in periods long gone by, under a reign bearing, in some of its features, no distant similarity in some respects to the present. All that malice, all that interest or power could devise, was tried during the reign of Henry VIII. both in England and in Italy. In the present case, they had an immense production of evidence, all of an unusual kind, and forming a singular and extravagant contrast with that species of evidence which his learned friend (the Attorney-General) had given them reason to expect. But, instead of fulfilling these expectations, what had actually occurred? Many of the statements, strange and incredible as they were, became much more so as detailed from the lips of the witnesses. Let their lordships fairly look at the means used in the collection of such evidence. Actual power, developing itself with a liberal hand, had been busily at work. It was not the wide hand, or open purse—no, not even the most precious streams of royal bounty, which had perhaps overflowed upon this occasion—that had produced all the effects which they were now considering. There was reason to suppose that power had been exercised as well as influence, and compulsion applied where other motives might not prevail. What was, in fact, the description of evidence adduced on the other side? In the first instance, it appeared that witnesses (designed originally for that distinguishable character) had been on divers occasions transformed into messengers; he would not call them by any harsher name. Keeping, as this their new capacity enabled them to do —he meant their lesson—stedfast in their minds, where was the wonder that they should ultimately join in the same story? How after so many interviews, such long-continued social intercourse, and the exchange of so many mutual affections, could they be conceived to state any thing in itself incongruous or discordant? Accordingly they seemed to have certain facts treasured up, embalmed as it were in a perpetuity of recollection; al-

though, when tried upon other topics, or when their attention was drawn to other circumstances, equally memorable, the faculty seemed to have abandoned them. Their leading man, the captain of this horde of witnesses, the great delineator of the plan of accusation, Majochi, the renowned Majochi, himself testified to what? To any positive act of criminality? Oh, no! What, then, did he testify to? any thing which by a liberal or judicious mind could be admitted as indicative of criminality? Strange it was, but important to be observed, before he entered upon a closer examination of this person's declarations—of the statements of this true and faithful creature—well did it deserve to be noted, that even his testimony fell far short of the charges as set forth by Mr. Attorney-General. He conjured them also to bear in mind that there was not one of the witnesses who had appeared at their bar who had not previously been examined, and who had not made some deposition before the Milan tribunal. Let them now then well mark the distinction; let them contrast with these persons the rank, station, character, and conduct, of those individuals to whom, indeed, Mr. Attorney-General had alluded in his opening speech, but whom he did not choose to call in support of his allegations. Not one of the witnesses on the other side, not one of the persons employed to destroy the reputation of a Queen of England, not one was to be found who had not gone through the discipline and drilling of a Milan tribunal. At that great receipt of perjury—(and he meant nothing disrespectful to any particular member of the commission)—but at that storehouse of false-swearing, and all iniquity, was every witness against her Majesty the Queen regularly initiated. How could it be regarded as necessary, with a view of purifying evidence, that it should first undergo a drill at Milan? However captious some persons might be inclined to appear, he doubted whether they would require a probation of this sort. But, indeed, it had turned out not only that witnesses had been long kept in England, but that many had been maintained on the opposite coasts of Holland and France. It appeared, too, that they had been maintained at an enormous rate, far beyond every rule of proportion that ought to have been observed. Sacchi, who had filled a post abroad, not above the office of a servant in his most prosperous days, lived in splendid idleness for a long

time in England, enjoying for that period the luxury and attendance of a field-marshal. Why were the witnesses on the other side thus concealed, or thus entertained? Small indeed had been the services of these people when they were thrown into the balance, and compared with their remuneration. Was it not also a matter well entitled to their lordships' attention that these witnesses should have been cooped up together, week after week; that they should have been forced into intimate society, and their motives necessarily brought into resemblance, and their objects in some degree identified? It was remarkable, too, that they were sorted, not as much with reference to the countries from which they came, or the languages in which they expressed themselves, as with regard to the depositions which they were to make. It was not his wish to pass any censure upon this rare *contubernium*, the select society of Cotton-garden. Imprisoned as its members were, they were rather objects of commiseration than of angry invective. Strangers to this land, knowing as little of their lordships as their lordships cared about them, what did their evidence, fairly weighed, amount to? It had indeed been contended that Italian evidence was as respectable, was of as high authority, as evidence derived from any other source. In order, then, to form a clear estimate—to introduce some light on this subject, he would refer to opinions entertained and to views taken in other times, and in alluding to which he could not possibly be supposed to indicate the slightest analogy with any occurrences of the present day. When he selected the reign of Henry VIII., he was sure that their lordships would join him in regarding that as the era most fertile in precedents for the measure now before them; but which did not, he believed, afford a complete precedent for it in any point of view. Yet it might be curious to inquire what was the estimation of Italian evidence throughout Europe at that time of day. It was upon record, it rested on the best historical authority, it was transmitted under the sanction of the names of eminent Italian jurists, that witnesses might be found in that country at a pretty cheap rate to authenticate or controvert any story. The grave doctors of the University of Bologna declared, after a solemn council, and by a decree which they subscribed *sigillatim*, that having well and maturely considered the whole matter between Henry VIII. and Ca-

tharine of Arragon, they were of opinion that his Majesty the King of England ought to be divorced from his wife. There was at that time something in existence not very unlike a late commission at Milan—an institution for drilling witnesses previous to their exhibition in open day. Could he look at such witnesses, and not feel how applicable to them was the language of a great orator and philosopher of antiquity, when describing individuals not very dissimilar, and when alluding to the absence of that kind of testimony which was most desirable :— "*Sunt in illo numero multi boni, docti, pudertes, qui ad hoc judicium deducti non sunt : multiim pudentes, illitterati, leves; quos variis de causis video concitatos. Verumtamen hoc dico de toto genere Græcorum : quibus jusjurandum jocus est ; testimonium, ludus : existimatio vestra, tenebræ : laus, merces, gratia, gratulatio, proposita est omnis in impudenti mendacio.*" To come, however, to that period of our own history to which he had already alluded, it might be of importance to remind their lordships of some circumstances which had been carefully preserved by a most faithful and honest historian. The author in question was Bishop Burnet, a man whose minuteness and accuracy of narrative were alike admirable. At that time it was deemed politic by the English government to institute certain inquiries in Italy. They were conducted under the superintendance of a gentleman, who, he had no doubt, if now living, would be described by his learned friend the Solicitor-General as being a most profound and skilful person, eminently conversant with the laws of his country, and whose name, by a strange coincidence, happened to be Cooke. No doubt he was a man of the utmost probity, and extremely learned in the law; but his commission and achievements in Italy were now matter of historical discussion. Let them hear, then, Bishop Burnet. These were the terms in which he spoke of the mission, and of the way in which it was executed :—" But Cooke as he went up and down procuring hands, told those he came to, that he desired they would write their conclusions, according to learning and conscience, without any respect or favour, as they would answer it at the last day ; and he protested that he never gave nor promised any divine any thing till he had first freely written his mind, and that what he then gave was rather an honourable present than a reward." In a letter to Henry VIII. him-

self; the same worthy person thus wrote—"Upon pain of my head, if the contrary be proved, I never gave one man a halfpenny before I had his conclusion to your Highness, without former prayer or promise of reward for the same." Thus they found that, even at that time, the distinction of the civil law between reward and compensation was clearly recognised. Amongst the dispatches then sent from Venice by Mr. Cooke to the British government were some rather singular and instructive specimens of diplomacy. It was matter of amusement to attend to the account rendered by this individual on one occasion. What he was about to quote before their lordships, in the way of general illustration, was the copy of an original bill of expenses, or rather a part of it, audited and signed by Peter a Ghinucciis:—"Item, to a Servite friar, when he subscribed, one crown: to a Jew, one crown; to the doctors of the Servites, two crowns; item, given to John Maria, for his expense of going to Milan, and rewarding the doctors there, 30 crowns." In another letter, the same excellent missionary thus expresses himself—"Albeit I have, beside this seal, procured unto your Highness 110 subscriptions, yet it had been nothing in comparison of that which I might easily and would have done; and at this hour I can assure your Highness that I have neither provision nor money, and have borrowed a hundred crowns, the which are spent about the getting of this seal." But on the subject of Italian evidence there was authority even yet more direct, and less susceptible of controversy. There were numerous individuals, natives of that country whom he had the satisfaction of knowing, and for whose characters he cherished an unfeigned esteem. But when he had to speak of the commonalty, and especially with a view to the sin of false swearing, it was hardly necessary for him to dilate on the notorious facility with which they could allege what was false, or deny what was true. Italy had been described by one who knew it well—its language, its manners, and its morals—as that part of the world in which, if remorse could be thrown away, every end might be easily attained—that was, every end which depended on perjury or fabrication. He was, however, drawn aside from the immediate question, and for this digression he craved their lordships' pardon. The aim of his preceding observations had been to impress on their lordships' attention

the extraordinary nature of the evidence in this case. There was, indeed, in that evidence a most surprising conformity; but it was a conformity most unfavourable to the statement of the Attorney-General. His learned friend had made a statement which had no support in the testimony of his own witnesses. Who amongst their lordships could forget the story of Mahomet, and of Mahomet's exhibition, as described in the opening speech of the Attorney-General? He had been represented as a man of brutal and depraved manners, and as exhibiting the most indecent gestures; as actually imitating the sexual intercourse, in order to furnish amusement to her Royal Highness. This was a statement which seemed to point to evidence of the most damning kind; it was a statement to which effort after effort had been made to substantiate, and in vain. The result of all their inquiries was to prove that the exhibition so described was nothing more than one of those common displays of buffoonery which had been often witnessed by the purest and most virtuous of those wives and daughters whom it was the happiness of their lordships to possess. Majochi, the chief witness on the other side, did not even pretend to insinuate that Mahomet's performance had any thing improper or indelicate about it. With all the Solicitor-General's dexterity of investigation, he had not been able to show Mahomet, the buffoon, in one indecent attitude. Even when the trying question was put with regard to the state of the man's trowsers, what was the answer? why, that they were as usual, that his dress was not at all disordered. Here, then, was an elaborate attempt utterly defeated. Their lordships, for reasons best known to themselves, but for reasons, he doubted not, that were dictated by consummate wisdom, and which they had not proceeded on till fully enlightened by experience, and a careful review of all the precedents which could bear upon the present case, had prevented him from animadverting on this failure so soon as he should otherwise have done. He felt happy, however, in the confidence that their lordships could never have intended to prejudice the cause of her Majesty. No doubt that, when they so resolved, it was from having already made up their minds to join in the unanimous verdict of acquittal which the country at large had already pronounced. The story of the Attorney-General had never even been dreamed of by his

own Italian witnesses. It was too wild and incredible for individuals who had been brought here from abroad, and removed from the situation of couriers to a state which many landed proprietors might envy. Signor Sacchi, or Sacchini, had, it appeared, been living in this country, attended by his man-servant, and at the rate of at least 400*l.* or 500*l.* a-year. This was an income which in Italy would be equivalent to 1,400*l.* or 1,500*l.* Their lordships had seen how he was dressed, and had also heard him state that, although he had descended to the office of a courier, he had always been in easy circumstances. It was not surely difficult to form a right estimation of such testimony. The pay or remuneration—and he would call it the hard-earned pay—of the captain and his mate, had astonished all mankind; had astonished them in consequence of that publication of their proceedings, which, in contradistinction to every ordinary rule, they had thought proper to allow. He would not, however, dwell upon topics so unpleasant at any greater length. He should have stood with confidence and steadiness upon his main ground of defence, even if there had not been so great a blank in the evidence—so scanty a supply, as compared with the mighty promise. The defence would have been entire and complete, although the Attorney-General had adduced evidence corresponding with all the minuteness of his statement. If that statement could be at all borne out—if the topics which it embraced were such as could be with any propriety alluded to, how were they to account for the absence of those ladies whose separation from her Majesty's retinue had been held up as a fact at once important and decisive of the question? They were persons of rank, known in their own country, and esteemed and loved in proportion as they were known; they were persons on whose reputation not even the vestige of a shadow had ever rested. But the Attorney-General called no one of them. There was not, however, a judge at the Old Bailey who would not, under such circumstances, have required their evidence as the most satisfactory test that could be applied. This he would do on the trial of a misdemeanour; this he would do in a case of felony; and of how much more importance, therefore, did a rule of this *nature become* on a question of high treason, *or what was but technically* distinguished from it?

He conjured their lordships to remember that they were not now sitting in their capacity as a court of judicature, they were not compelled to take cognizance of this matter, or to bring it to any issue. They might, if they pleased, dismiss it; they might give it the go-by; and, gracious God! what was there in the case to induce the Peers of England to pursue a Queen to destruction! What was there in the testimony brought from out their *presidia* in Cotton Garden—what was there in that to induce them to run counter to a sentiment almost universal? O, let it not be said, that in that sacred temple, that sanctuary of justice, the Peers of England, with a rash hand, had made up their minds to bear down its most venerable symbols, upon grounds so weak and so fallacious, and to sink themselves in eternal condemnation at the tribunal of after-ages.

Mr. Brougham here paused, and threw himself on the indulgence of the House for a short relaxation. This was readily granted.

After an absence of three quarters of an hour, Mr. Brougham re-entered the House, and their lordships having taken their seats, the learned gentleman proceeded with his address. He had, he observed, to crave their lordships' pardon for the delay which his absence had unavoidably occasioned. He would now submit to their lordships all that occurred to him on that part of the case which was connected with the evidence, and he was afraid he should be compelled to solicit their lordships' attention for a considerable time to the important considerations which here presented themselves. The first point that would necessarily arise in their lordships' minds was a recollection of the principal parts of the evidence, and their practical application to the case. Here it would be his duty to notice, in a particular manner, the first witness, who would be long known in this country, and throughout the world—whose favourite expression would be handed down, much after the same manner as the sayings of some of the ancient sages had reached our days; their names indeed were lost, but they still existed in the celebrity of their brief and pithy sentences. That witness had distinguished himself during this trial by an expression equally brief, and to him more useful: that one sentence appeared to comprise the entire practical result of all the wisdom and all the *experience which he had* accumulated in the study of

his art; and, as long as the words "I don't remember," which he used in the practice of that art, in which he evinced great skill—so long as those words were known in the English language, the image of Majochi, without the man being named, would forthwith arise to the imagination. He was a witness of the greatest importance in this case. He was the first called, and he was the last examined. His evidence accompanied the case nearly throughout; it almost extended over the whole of the period to which the charges themselves referred; in fact, it went to the period when he was dismissed, or rather when he retired, from the Queen's service, and was refused to be re-admitted—which was about the time when the charges were brought. He and Demont stood apart from the rest of the witnesses, and resembled each other in this respect—that they went through the entire case. They were indeed the great witnesses for the bill—the others were rather witnesses of a confirmatory description. They were all willing witnesses—some of them had already received much. A part of them were influenced by actual acceptance—a part by the hope that the gratitude of those who summoned them would operate greatly to their advantage: they were, therefore, zealous in the behalf of their employers; and, of course, they would not have stopped short at mere confirmation, if, by any means, they could have carried the case through. This he stated, generally, with a view to the relative importance of the character of all the witnesses. He would now entreat their lordships' attention whilst he entered on this branch of the subject more in detail. He had often heard it asserted that the great prevailing feature of Majochi's evidence—his want of recollection—signified but little, because a man might err—memories differed. He granted that they did. Memories differed as well as honesty. He did not deny it. But he thought he should be able to show their lordships that there was a sort of memory utterly inconsistent with any thing that he could figure to himself. But why should he invoke his fancy? Why, when he had only to recollect Majochi and his evidence? He could point out parts of that evidence, than which he defied the wit of man to conceive any stronger or more palpable instances of false swearing than might be traced in the use of the words which he had before quoted. He *would not detain their lordships* by citing cases where

the answer "I don't remember" might be innocent—where it might be meritorious—where it might not only be no impeachment, but confirmatory of the testimony of a witness, and tend to the support of his credit. Neither would he allude to cases where such an answer would be the reverse of all this—where it would be destructive of the testimony, an utter demolition of the credit of the person examined. He would not quote any of those cases, but take the evidence as it stood; and from it he would show that while Majochi's testimony abounded in guilty forgetfulness, no one circumstance, supporting the idea of an innocent forgetfulness occurred. He would proceed, at once, to give their lordships proof positive of this man's perjury—and this he would do by averting to his mode of forgetting. In the first place, he begged leave to direct their lordships' attention to the way in which this witness swore as to the position of the rooms of Bergami and the Queen, with reference to these charges. The great object of the Attorney-General, as shown by his opening, and as evinced by the whole of his examination, was to show a communication between those apartments; and the manner in which Majochi answered indicated that he was privy to the concoction of the plan. The object of that plan was to prove the position of the rooms of the Queen and of Bergami always to have been favourable to the commission of adultery, by showing that they were near, and had a mutual communication, whereas all the rooms of the rest of the suite were separated and cut off from those apartments. Thus it was meant to support the inference of that guilt to which the charge related. Accordingly, the first evidence, who was to go over the whole case, was better informed on this part of the subject than any other of the witnesses. There was more appearance of proof in his testimony on this point—it presented more accuracy of detail than that of the other witnesses—when he was examined with a view to extract criminatory matter against the Queen: but he was not prepared for any attack, and his regular custom was utterly to forget himself, in order that he might be protected against the severity of a cross-examination. The questions constantly asked were, "Where did the Queen sleep?—In an apartment near that of Bergami. Were those apartments near or remote?—They were near." Questions of this kind were asked over and over again, so good a thing was it

thought to procure the answer that the apartments were "near" repeated with success. The same answer was invariably given. Bergami was represented as occupying an apartment near that of the Queen, with which there was a communication, sometimes by a passage, sometimes by a room, sometimes by a door. Then it was asked, did the rest of the suite live apart? Were they distant from or near to the Queen? Was such the position at Naples? It was important to advert to this point, because more was made of the approximation of the chambers at Naples than at any other place. In the direct examination, the witness was asked, "Did the people of the suite sleep in that (the Queen's) part of the house, or at a distance?" And the Italian word in answer was "*lautano*," which was interpreted "apart." He however remarked at the time that it meant "distant;" and distant it meant, or it meant nothing. Here then the witness had sworn distinctly, from his own positive recollection, and staked his credit upon the truth of a fact—upon this fact, "that the rest of the suite lodged apart and distant from the Queen," which, coupled with the statement that the rooms of her Majesty and of Bergami communicated together, must have the effect of combining both these circumstances, as a proof that means were adopted to indulge in a criminal intercourse. Majochi positively stated, in the first instance, that "the suite lodged apart and distant from that portion of the House occupied by the Queen." Was there not, then, an end of his "innocent forgetfulness," if, when he (Mr. Brougham) came to ask him, in his cross-examination, where "the suite slept" he altogether falsified his former statement, and told him, "I don't know, or I don't recollect?" It clearly had this effect: because he must have known, and he must have recollected the circumstance, since in his examination-in-chief he had sworn that two rooms, those of the Queen and of Bergami, were near, but that the rooms occupied by the suite were distant and apart. When he spoke of the proximity of the rooms in the one case, and their remoteness and disseverance in the other case, and when he afterwards declared, with reference to the latter, that "he did not remember where the suite slept," it was clear that he had perjured himself one way or the other, he cared not which, as much as if he swore he saw a person one day, and swore he did not on the next. The

one was not a more gross or direct contradiction than the other. In stating his recollection and his forgetfulness, if their lordships would look comparatively to where the witness remembered and where he declared he had forgotten, he believed they would almost uniformly be led to a similar conclusion. He would give one specimen, from the evidence itself, to show their lordships, when the witness was asked any questions relative to the Queen's apartments, in support of the case, where he had learned his lesson, and was examined in chief—where, in short, he was afraid to speak, no opposition being made to him—how very tenacious his memory was. He would convince their lordships what his recollection really was; he would give them a fair sample of his memory. He (Mr. Brougham) asked him—

The Lord-Chancellor.—What page do you quote from?

Mr. Brougham answered, "Page 47" *(Charges p. 69)*.

The Earl of Liverpool suggested that the learned gentleman, when he quoted from the minutes of evidence, should specify the folio.

Mr. Brougham proceeded. In cross-examination he asked the witness—(and he did so in order to show his accuracy of recollection on particular points, where the evidence had been well drilled):

"Have you ever seen the Villa d'Este since the time you came back from the long voyage?—I have.

"Was the position of the rooms the same as it had been before, with respect to the Queen and Bergami?—They were not in the same position as before."

And then the witness told a long story describing the alterations. "There was," he stated, "a staircase, or landing-place of a staircaise, on one side of the Princess's room. There was a small corridor, on the left of which there was a door that led into the room of the Princess, which was only locked; and then, going a little farther on in the corridor, there was, on the left hand, a small room, and opposite to this small room there was another door, which led into the room where they supped in the evening. There was this supping-room on the right, there was a door which led into Bergami's room, and on the same right hand of the same room there was a small alcove, where there was the bed of Bergami. I saw two doors open always—but there was a third stopped by a picture." Now could any recollection be more minute than the recollection of a man who could state all these particular circumstances? He had

no objection to this display of accuracy, in any point of view. If an individual were to invent a story entirely, if he were to form it completely of falsehoods, the result would be his inevitable detection and exposure; but if he built a structure of falsehood on the foundation of a little truth, he might then, by using some degree of address, place an honest man's life, or the life and character of an illustrious Princess, in jeopardy. If the whole edifice, from top to bottom, should be built on fiction, it was sure to fall; but if it was built on a mixture of facts, it might put any honest man's life or reputation in jeopardy. He (Mr. Brougham) only wished their lordships to contrast with this minute recollection of rooms, doors, and corridors, the circumstance of Majochi not having the slightest recollection of a whole new wing added to the House in which her Majesty had lived. He recollected the slightest alteration respecting a bed-room or chambers in the House, but he recollected nothing of a whole new wing added to that House. This showed the dishonest character of the whole testimony. Of the same nature was his evidence when any calculation of time was required. He observed the most trifling distinction of time when that suited his purpose, and he recollected nothing of time when it was inconvenient for his object. In proof of this, their lordships were requested to refer again to the celebrated scene at Naples. This witness remembered down to minutes the time which her Majesty had passed at two different times in Bergami's room. The first was from ten to fifteen minutes, the second from fifteen to eighteen minutes. Here the mean time was sixteen minutes and a half. The witness went to the window, and fired a gun, exactly three minutes afterwards. Here the mean time was given at once. A quarter of an hour was then stated with equal accuracy, and afterwards three quarters of an hour. All this was in answer to his learned friend; all this was in the examination-in-chief; all this was thought by the witness essential to his story; all this was to garnish the story with an appearance of accuracy essential to his purpose. But such minute accuracy was of use not to him, but to the Queen. When it was of use, not to the prosecution, but to the defence, then he could not recollect whether it was a whole night, or eight hours, or any definite period. "Why could you not recollect the period of time on this occasion as well as on the other occasions? — I had no watch."

"Had you a watch when you reckoned a minute, and the fraction of a minute?—No." Why, then, did Majochi know the precise time on one occasion, and not recollect any thing of time at another occasion? He pleaded the want of a watch only when the defence could be served by time, or when he was asked something which he conceived their lordships would consider of importance for the defence. Majochi answered no categorical questions. When asked as to the number of sailors present, he could not tell whether it was two or twenty-two. As to place he was equally in fault. Although he slept in the hold of the ship, and all who slept in the hold too, he could not tell the others that slept at any time there by day or by night. Therefore he (Mr. Brougham) could ask their lordships, whether any person ever appeared as a witness whose testimony was so varying, and so exactly suited to the character which the witness was to support? But this was not all. The answers "I don't recollect," and "I don't know," were such as could not by possibility be true, if the answers given in the examination-in-chief were true: as, in the instance to which he had referred in Naples, if the minuteness sworn to in his examination-in-chief was true, and founded in fact, it was impossible that he should have no recollection of the matters to which he was cross-examined. If it was truth that the rooms and doors were as he described, he could not by possibility know and recollect that, and be in total ignorance of the other parts of the House. In the same manner, this witness knew nothing of Mr. Hughes; he never knew a banker's clerk; he knew nothing of the name; he had never known any of that name, or any banker's clerk. But when he saw that he (Mr. Brougham) had a letter in his hand, and before he had in any thing refreshed the witness's memory, he clearly showed that he had never forgotten either the name or the place. By the demeanour of the witness, too, and the tenour of his answers, their lordships must have seen the same change evinced. Majochi gave as his reason for this inconsistency, that familiarity had made him forget the name and occupation of his familiar. The ground of forgetting his trade was the familiarity which formed the ground of calling him "brother banker." It was very manifest that Majochi was not very willing to give the name, or the trade, *or the place* of residence, of any one with whom he had *been acquainted; for* what reason he (Mr. Brougham)

would leave their lordships to judge. But, before he should be done with this witness, he would give another instance of his dishonest intention. Their lordships recollected the shuffling prevaricating answers he had given respecting the receiving of money. He had first told that Lord Stewart had given him money at Vienna. Afterwards he had, twice over, sworn that he had never received money at Vienna from any person. It was the same as to his receiving money at Milan. "I remember to have received no money at Milan—I rather believe I received no money—Rather no than yes—*Non mi ricordo.*" He (Mr. Brougham) had some guess what evidence this witness must have given when he laid the foundation of the favour which he had since uninterruptedly enjoyed. When he had been laying the foundation on which his fortunes were to be built, their lordships would recollect that he knew a great deal. In the opening speech of his learned friend much was stated which this witness was expected to prove. As an instance, their lordships would recollect that Majochi was to have proved that the Queen and Bergami had been seen kissing one another in a bed-room. Did Majochi swear this? On the contrary, the witness negatived it in the completest manner. It was only whispering. This single instance showed the whole character of his testimony; but he would give their lordships others quite as fatal to the credit of the witness. He would show to their satisfaction that Majochi had told one story to the instructors of his (Mr. Brougham's) learned friends; but that when brought to their lordships' bar he told a far different story, probably from knowing the facts and documents which he (Mr. Brougham) had got in his possession, but more probably from having forgotten part of his invention. This partial forgetfulness was much more likely where the whole was an invention than where truth was the foundation of testimony. So it was in this case. Majochi recollected part of his testimony. "Yes" was ready for the question. But parts he did not recollect. It was perfectly evident that what one saw was far more intensely and permanently impressed on the mind and recollection than what he might afterwards invent and add to his actual observations. Thus it was that Majochi recollected part, and forgot other parts. He had been asked whether he had seen *any one bring broth* to her Royal Highness

Yes. "Do you know whether any entered the room with her Royal Highness?—I don't recollect. After Bergami had entered the bed-room (assuming that he had seen him enter), did any conversation take place?—Yes." Well, but conversation might be very innocent; that would not do. "Was there any thing else?" This question had been asked because Majochi must have sworn something else before. To elicit that now, he was asked if there was any thing else? There was, in fact, something which his learned friend wanted. But Majochi forgot part of his invention, as always happened to certain persons whose names he would not mention to their lordships. The something given in answer, therefore, was "only some whispers." If it were said that whispers were all that his learned friend meant, he would say, No. His learned friend had opened very different facts; but besides, from the examination of the Solicitor-General, it was evident that more was expected. "Aye, but was there any thing more?" Whispering would have satisfied, if nothing further had been sworn before. But the inquiry was pursued:—"Did any thing at any other time occur?" Oh, it might not be at that time: was there any other thing at any other time?—"whispering," said the witness again. Another instance, to the same effect, he would call their lordships' attention to. He hoped he was not too minute. He felt it necessary to enter into this detailed investigation, for it was so that conspiracies were detected. "At Genoa you saw her Royal Highness riding upon an ass?—Yes." There was something, however, expected, more than that fact. There was nothing indecorous in riding upon an ass by daylight. "Did you make any observation? What passed?—He held her." Very well; there was a great deal in holding her, and a great deal might depend upon the nature of the tenure. "What else?—He held her from falling." Aye, that won't do. His learned friend was not satisfied with that, having had something in his hand which the witness had sworn before, and not knowing that it was a different, a very different thing, for a false swearer to recollect his fiction, and for an honest witness to recollect what he had actually seen. His learned friend, therefore, proceeded: "Did you make any other observation?—No, they spoke together." A number of other things might be recalled to their lordships' recollection to the same effect. The witness

stated respecting the breakfast what others had stated. What was fact he recollected; but what he said he did not recollect, was as clear as what he did recollect; and if his recollection were true, he would have recollected as well other facts as those he pretended to recollect. He (Mr. Brougham) must also remind their lordships of the incredible story told by Majochi, when he would have them believe that the Queen, having free access to Bergami's room, through rooms where no person slept, she chose rather to pass through an occupied room. The witness would at first have represented that there was no other access, but, after much equivocation and perjury, he admitted that there was another access; yet, having admitted that the Queen had easy, safe, and ready access to the place of guilt, he represented that she preferred passing through another room where Majochi slept—where he slept in a bed without curtains; that she preferred passing through a room so small, that she must have touched the bed—through a room where a fire was burning; and, what was most monstrous of all, they were to believe that, to to make detection sure, she stopped in her passage through the room, and looked in the face of Majochi, to ascertain whether he was asleep. The whole of this story defeated itself. Why pass through a room where she must be observed, rather than through a room where none slept, where there was no fire, no uncurtained bed, and no possibility of being observed? Was she indifferent because it was a person she knew nothing about, no servant of her's? The looking in the face was quite improbable; but it was a statement which one was very likely to invent in a country where robbers were not few and robberies not unfrequent. A robber naturally came to the bed where a lady slept, and looked in her eyes to see if she was asleep. If she was not, he could proceed no farther. It was therefore very wise and prudent in the robber to take this precaution: but for a person going to commit adultery in the next room to look in the face of him whose mistress she was, and that person the Princess of Wales—when the very looking condemned, exposed, and convicted her—this was the most incredible, the most silly invention that could be made. But it was providentially and most happily ordained, for the detection of guilt and the defence *of innocence, that* such inventions were often *carelessly put together*; and here the invention was

in particular, thoughtlessly put together. With respect to Bergami's dining at Genoa, Majochi was contradicted by the other witnesses. When asked if he did not recollect his being at dinner when Villascarti, the courier, arrived, he knew nothing of such a person. But when asked whether he remembered knocking at Bergami's room-door, he replied, "I remember perfectly when Villascarti arrived." Then, recollecting the contradiction, he said it was not on that account he remembered it, but because thieves had arrived and attacked the house that night. But there was one part of Majochi's evidence upon which he would rest as gross and palpable perjury. It was so gross and palpable as to dispense with the necessity of pointing out perjury in other instances. He denied that he had been dismissed by her Royal Highness; but said he had left her service because of the bad people that were about her. This he said with the double purpose of raising his own character, and debasing the Queen's. But he would show this to be false from his own mouth. When asked whether he had not made application to get back, his answer was—"I don't recollect." "Did you apply to Count Schiavini to be taken back?—I did." The moment he mentioned that, his assertion, that he did not recollect, failed; therefore, to save himself, he told them all—and very material it was for their lordships' consideration—"Yes, yes, *(cosi, cosi,)* I did apply to Schiavini, but it was in joke." Now, their lordships would mark that. The former answers were probable, if this was in joke; if not, they were positive perjury. If, then, this was in joke, what followed he would have at once answered by "No." "Did you apply to several persons? Did you apply to Hieronimus?—*Non mi ricordo.*" This last answer was gross and wilful perjury, or the first answer was gross and wilful perjury. He (Mr. Brougham) cared not which. The joke, in fact, was an invention to protect the other invention, or the story was perfectly incredible, that he applied in joke to Schiavini, and that he did not recollect whether he applied to others. Their lordships recollected the manner too of this witness. He showed some flourishing and figure—"I would rather eat grass than go again into the service of the Princess." Was it true, and was it the language of an *honest man, that he would rather eat grass than go back; that he applied in joke to be taken back; and*

that he could not afterwards swear that he had not applied to others to be taken back? Here then was the mystery unravelled of Majochi's *Non mi ricordo*. His testimony was false, either one way or the other; he (Mr. Brougham) cared not which. He must now call their lordships' attention shortly to the next witness; it would be very shortly, because those well-paid swearers exhibited a certain something in their demeanour which at once showed the value of their testimony. In courts of justice nothing was more sure to disclose the falsehood of testimony than a flippancy and pertness in the manner of telling a story. A false witness was always flippant and impertinent when pressed. As an instance of this their lordships would recollect that Paturzo, when asked whether the guns were on deck, answered "Yes—they were not in our pockets." He (Mr. Brougham) only mentioned this, because his learned friend had said that this was a good, correct, unimpeachable witness, and because his testimony had been represented in the opening speech as infinitely important. He would venture to say, at least, that a better paid witness, or better paid Italian for any purpose, had never yet come to his knowledge. The money paid was upwards of 2,000*l.* sterling a year to one who had been mate of a vessel in the Mediterranean, and who was now fourth-part owner, and as a means of making compensation to him instead of giving him a reward. The profits of the vessel, according to this calculation, was 8,000*l.* sterling a year. This, in the Mediterranean, was equal to 16,000*l.* or 20,000*l.* in this country. Not one half of this money did any trading vessel in the Mediterranean ever make. In Messina the whole ownership would be thought most fortunate that produced 400*l.* a year. That was a great income in that country. None but the noblesse was ever heard of that had 1,500*l.* a year there. No such thing was known among traders or merchants. If any master and his mate made such splendid fortunes, their names would have resounded through Italy as the rich of the earth; and none would visit that country who would not wish to see them, and to have letters of recommendation to them, as eminent and distinguished among their countrymen. The cobbler was known in history, but this master and his mate had never *been known beyond* the streets of Messina till *they came to merit this large* compensation. The mate

made nothing equal to 2,000*l.* sterling a year: this was his own story. The captain, as might be expected, had still more; he had more than 2,400*l.* sterling a year, besides having every expense of travelling, living, and perhaps clothing, paid. This too was given in addition to the profits of his ship, which was all the time sailing and earning trade, and in addition to the profits of the cargo. Yet it was only a compensation. The captain was paid all this money as compensation, not as recompense! This master had had a quarrel connected with his testimony. He told with some *naivete* that himself, his mate, and 22 men, had been engaged, including profits, expenses, and trade, for one-fourth less than he now received for coming over to swear upon this occasion against the royal personage whom he had then served. But, he added, that when royal persons made engagements with him, the uncertain profits were greater than the certain contracts. This was a great truth, well known to many there, that something certain was often stipulated, but that still more was often given as honorary and voluntary compensation. The master was not, therefore, to think his compensation limited here to 2,400*l.* a year. If one royal person gave him so much, and if that was nothing compared to the uncertain allowances to be made to him, how much less would her illustrious husband and his servants be limited to 2,400*l.* a year if he pleased them — if he fully made out the case—if the case should come well through his hands, and no accident befel him in giving his testimony. If he should succeed in this, he must get what would make a mere joke of the 2,400*l.* a year. He (Mr. Brougham) had mentioned the inducement of reward, but there was another inducement. Was there no spite entertained towards any of the parties? The whole of his testimony was bottomed in revenge. He had distinctly sworn that he had had a quarrel with Bergami, whose business it had been, as chamberlain, to pay money for her Majesty, and that he had complained to his own ambassador of being deprived of 1,500*l.* This was proved from the witness's own mouth. This appeared in pages 134 and 135 of the evidences. *(Ch. p.* 127.) In consequence of this complaint to Count Ludolph, this witness, Gargiulo, became known to the English government. The only means they had had of knowing his name and place of abode was his

complaint against the Queen, and his claim of 1,300*l.* At page 135 *(Ch. p.* 128.*)* it was stated, "I have received nothing: nay, my minister and the colonel nel to whom I have mentioned it, told me that they knew nothing, and that I might go to London, and then might see upon this particular." He now came to London to see into it, and he would not see the less clearly that his evidence was of use. There were other matters in this witness's testimony of a very peculiar character. He (Mr. Brougham) thought that the Princess of Wales, stooping on a bed in a vessel with her arm round a gentleman, and from time to time kissing him, not a very ordinary sight even for nautical men, nor such a sight as they could forget. Yet the master and his mate forgot, or differed most materially in the history of this matter. The mate said he had seen the Queen sitting on Bergami's knee near to the mainmast. He (Mr. Brougham) stated this minutely, because the mate considered it important. The mate meant to say that his evidence was given with particular accuracy, if not correctness. Yet he said it was not on a gun that the Queen sat on Bergami's knee. Not one word did he say about kissing and similar facts, the most important of all. Their lordships would, therefore, conclude with him that they did not happen. The captain, on the other hand, stated that it was on a gun, and not at the mainmast, that the Queen sat on Bergami's knee. But did they speak to the same time? Yes, for the captain said the mate saw it at the same time. The mate, however, had not seen it; and his learned friends had not dared to ask him any questions respecting it, because the captain had not had time to be trained sufficiently. He (Mr. Brougham) merely mentioned these circumstances, to show that the story could not be true, because, if it were, such differences would be impossible. Yet those pure, fastidious, and good scrupulous witnesses, from places chaste and sacred as the garden of Eden before the fall—from Messina and Naples—displayed a nicety of moral caution that was exceedingly exemplary. The captain, because the Queen was seen leaning over Bergami without touching him, desired the mate to go away, because, on account of their relation as master and mate, he was bound to protect his morals, and also because the ties of blood imposed a responsibility upon his conscience. Therefore *he would not let his mate* be near that part of the ship.

He never said that the Queen wished him to withdraw, or that there had been any order form Bergami; the guilty pair cared not who saw them: but the virtuous Gargiulo, reviving, in the modern Mediterranean, a nicer sense of purity than the ancient ocean there had ever seen, would not allow his relation to view such a pair; for when they were so near they might touch, and that in the presence of the mate Paturzo. There might be those who believed all this; he could not account for the belief of some; but if there were not another thing to be objected to Gargiulo and his mate, this was sufficient to prove that their testimony was not true. This was all invented, or fabricated and gross falsehood. The captain meant to improve the case, to take in cautious minds; perhaps to increase his claim to enlarge the uncertainties, which with loyalty were greater than certainties; to improve his chance of obtaining the 1,300*l.* for which he had come over to this country. But one more statement of this witness he would mention, and then he should be done. He held up these witnesses as models of perfect art, as well finished examples of their kind, as the best paid, and altogether such as ought to be esteemed very crack specimens, displaying zeal in proportion to the much they had received, and the more they expected. But happily there were limits to this art, as to all human arts; and if there were not, God pity the innocent against whom this mighty art might be directed. It was found here that the accomplished swearers could not make their testimonies tally without communication after the first had gone through his examination, and before the other was begun to be examined. But the master and mate were evidently descendants, lineal descendants, of the doctors of Bologna. They were afraid to have it thought that they had spoken together on the subject of their evidence. They were living together, lodged together in the same magazine, breakfasted together that very morning; yet, with all this, from a degree of care that would do honour to the nearest relations, and which he wished all relations observed, they never entered on this subject, and that a subject which occupied the attention of every mind in the kingdom. This was not peculiar to them, but the manner in which it was stated was peculiar. "I am not the man to speak of such a subject," *replied the captain. Why?* "It would not be decent;

it would not be fitting that I should say any thing out of doors of what I have been asked here." Did you ever speak to the mate of it?—"O never, never." Did you agree that you should not speak of it? Did you determine that you should not say any thing of it, and agree thus?—"You and I coming here upon one subject must not mention that subject the one to the other." He (Mr. Brougham) knew not whether the witness had understood this question, but his answer had been "Yes." One general remark upon this point yielded much satisfaction and consolation. Whatever injury this inquiry might do to the highest and most illustrious persons, whatever mischief to the conduct and good case of social life might arise for some time to come from the details brought forward, one spot, one little land of Goshen, was sacred and pure from contamination. From all the impurities which offended the delicate—alarmed monarchs—and went so well nigh to contaminate the morals of the nation, one spot was safe; and, strange to tell, that spot was no other than Cotton-garden, in this very vicinity. Let no person suppose that the danger was so great as it had been represented, or that there was any truth in the assertion that the island was flooded with impurity and indecency; for Cotton-garden was pure and uncontaminated. Of all the unclean horrors which had been conjured up, it turned out that not one whisper was heard in Cotton-garden. There not a word was spoken, even remotely connected with a matter which so much vitiated the mind, and which debased, he would say, the reputation of this country. If their lordships chose to believe this, far was it from him to interrupt a delusion so pleasing; it was delightful for the mind to repose on such a spot. If they disbelieved it, they must believe something else, and that was—that all the witnesses in this depôt were perjured again and again. The course of his observations had now brought him to some personages, even of greater importance than the captain and mate, however pompously introduced by the Solicitor-General—he meant Demont and Sacchi. He trusted that he should be excused for coupling them, united as they seemed to be by the closest ties, and resembling each other as they did in some of the most material particulars of their history. Both had *lived under the roof of* the Queen—both had enjoyed

her bounty—both had been reluctantly dismissed, and both had solicited to be taken back into place and favour.—The bonds that originally united them had subsequently continued—they had lived in the greatest intimacy, not less in their native mountains of Switzerland than in England; they had remained here nearly for the same period of time, above 12 months, and those months had been occupied by them in a manner best calculated to fit them for the service of their employers, in obtaining a knowledge of the classic writers of our island, through an accurate study of our language. Incidentally this gave them a great advantage—only incidentally—for, modestly, they did not brag of their proficiency, but availed themselves of the assistance of an interpreter, which gave them an opportunity of preparing an answer to the question they had understood, while the interpreter was furnishing them with a needless translation. The other points of resemblance were many, and he would not further dwell upon them in particular, because they would be illustrated as he proceeded. He wished, in the first place, to remind their lordships of what sort of person Mademoiselle Demont described herself to be, because it signified very little what he should be able to prove her, compared with what she had proved herself. He would take her own account, and he could hardly wish for more, though she might well wish it less with the most ordinary regard for her own safety, not to mention the sanctity of truth. She was a person of romantic disposition, naturally implanted, and certainly improved by her practice in the world. She was an enemy to marriage, as she stated in her letters, and did not like mankind in the abstract, whatever she might do in the particular—*amica omnibus quamlibet inimica* perhaps she might turn out to be in the end. However, she hated mankind in the abstract, only making an exception in favour of such a near friend as Sacchi, whom she dignified by the title of an Italian gentleman, though he, ungrateful man, would not return the compliment by acknowledging her to be a countess. Marriage, she said, she did not like—she loved liberty, "the mountain nymph, sweet liberty,"—and in pursuit of her among her native hills their lordships would not fail to see into what company she had fallen. Were these to be reckoned among the accomplishments of this lady? By no means; she was

the most perfect specimen, the most finished model, of a waitingmaid, the world had ever seen: none of her own writers, and none of ours, whom, no doubt, she had studied, had given such a pattern for imitation; Moliere, Le Sage, Congreve, and Cibber, had all fallen far short of this admirable original. He did not mean that all her qualifications had been developed at once; some of them had gradually made their appearance under the cross-examination of Mr. Williams, when she showed that her education had done honour to her natural abilities; she had shown that she was gifted with great circumspection, that she possessed much readiness in adjusting one part of her evidence with another, and great skill, if the eternal laws of truth allowed it, in blinding and deluding her hearers. She evinced not a little readiness in reconciling the story she had told with the contents of the letters produced, which letters she had not forgotten, though she did not know that they were still in existence to be produced against her. Had she been aware of their preservation, and had her patrons known their contents, their lordships would never have heard of her: she would never have been produced as a witness, but would have been shipped off, as many others had been, like so much fresh meat or live lumber for their native country. But her constant mode was to deal in *double entendres*; Sacchi did the same, so that it was impossible to know what they really meant: to them indeed might be applied what formerly had been said of the Greeks—*tribuo illis litteras, do multarum artium disciplinam, non adimo sermonis leporem, ingeniorum acumen, dicendi copiam: denique etiam, siqua sibi alia sumunt, non repugno: testimoniorum religionem, et fidem nunquam ista natio coluit: totiusque hujusce rei quæ sit vis, quæ auctoritas, quod pondus, ignorant.* But the candour of Demont had been praised, and why? Because she admitted that she was turned away for a story which proved to be false. He had heard her applauded for other things, and especially where she said that she was sincere in some of the applauses she bestowed upon the Queen. In the same way she had been asked "whether she had not been in want of money?—Never. Did you not write to your sister that you were in want of money?—That may be so; but if it were it was not true." This was called candour, and though in *rerum natura* there *might be no connexion* between truth and her statements,

and though a thing's being false did not prevent her either from writing or speaking it, yet to his no small astonishment he had heard her evidence praised for its fairness by persons of moderate abilities. He need hardly remind their lordships, or indeed any man whose capacity was above that of the brute animals he abused by using, what utter nonsense those talked who applauded the evidence of this witness for its candour. Demont asserted that she was insincere—she allowed that she had told numerous falsehoods; and what praise was due to that ingenuousness with which she told the House that she dealt wholesale in untruth, and that no dependance could be placed on a syllable that fell from her lips? Yet, in the opinion of some persons, so captivating, so seductive, a blandishment was this, that it blinded her judges to her faults, and opened their ears to all the tales of so accomplished and ingenious a liar. In any body but a witness candour might be approved; but here, "Pure, dear, innocent Swiss Shepherdess, how ingenuous thou art!" was the cry, and immediately all that she uttered was to be believed. Certainly the strangest of all reasons for giving credit to a witness was to cite her candour in admitting that in no respect she deserved it. Look at her letters, and at the explanations she had offered of them. He would not go through the details, but every man must be convinced that those explanations were impossible: they did not in any respect tally with what appeared in black and white—her gloss did not suit her text: they were wholly inconsistent, and the clear contents of the four corners of the document showed that what she was stating was untrue. The letters wanted nothing to make them quite intelligible, and her key did not fit her cipher: the matter only became doubtful as she enveloped it in falsehood by the inventions of the moment, by her *extempore* endeavours to get rid of the indisputable meaning of her own handwriting. A plain honest witness would know how to deal with these things, and would not entangle himself in the miserable webs of this dirty-working creature. The sense of the letters was plain and obvious, and he prayed to God that their lordships might so believe it, and might not stand a solitary exception to the conviction of all the rest of mankind. He hoped that they would believe that this woman was sincere in her praises of the Queen; that she spoke in her letters the

language of her heart, and that her notions had only been changed as her mind became corrupted, when she fell into the hands of the other conspirators against her illustrious mistress. Another feature of this lady's character he had nearly forgotten—her affection for her sisters. The principle of her conduct, if she were believed, had been anxiety on this account: yet how had she proceeded? She had done her utmost to secure one of these innocents, of the age of 17 or 18, in a house, which, if her story were now credited, instead of being called a palace, deserved only the name of a brothel. Yet she had been content herself to submit to the contamination because the mercenary Swiss described herself as setting the profits of her place against its disgrace, as the Roman emperor did the money he obtained from a filthy imposition. She allowed that it was worse than an ordinary brothel, yet one of her sisters of 15, and the other of 17, whom she loved so dearly, were both to be introduced into it in creditable and comfortable situations. Such was Demont by her own account; but who would believe her so bad? No woman could be so bad; yet she insisted that she was, because her own letters were produced against her. It was clear, however, that she had given her evidence in utter ignorance that her handwriting could be brought forward in contradiction. In referring to the evidence of Sacchi, there was one very pleasing symptom well deserving notice: it was connected with the reception it had obtained, and to the mode in which a false estimation had been endeavoured to be given to it. It showed how the age was improving—how it was rising above the vulgar prejudices of a few years ago, against the French and their leader. He remembered the day when few persons would have ventured to bring forward a principal witness in any case, much less in one of this delicate nature, who had been a soldier of Buonaparte, who had served during many campaigns with him, and who had been promoted by that Corsican usurper—that revolutionary adventurer—that tyrannical chief: then a French hussar would have almost been considered another name for every thing that was profligate and abandoned. However, against the Queen of England he was thought a witness good enough; and, coming to England, he took upon himself the character of a gentleman; and *he that had been once a common* soldier in the French

army, and afterwards a courier in the service of the Queen, was brought forward as a person on whose testimony the utmost reliance might be reposed. He (Mr. Brougham) did not object to him that he had been a soldier, though perhaps he did not think that the Italians in the French army, and especially those from the north of Italy, were usually the most scrupulous of mankind. Sacchi, too, dealt in his *double entendres*; besides, he had gone by three whole names and a diminutive; two of them were known, and one yet unknown, but by three names and a half had he gone. When he came into this country, and was within the four seas with Demont, he began his *double entendres*, and he was not satisfied with one any more than with one name: he had got into the habit of dealing in *double entendres*; and accordingly his first was, that he had come here in the service of a Spanish family; his second regarded a lawsuit, which had occasioned his visit to England. He stoutly denied, however, that he received any pay from his present employers; yet having been very unwillingly turned away by the Queen from the low office of a courier or equerry, he came to England, and lived like a gentleman of fortune. He resembled Demont in another respect —they both showed the same want of connexion between their speaking and writing. He was asked how much money he had had at his banker's at Lausanne, and he answered 50 Napoleons. "Had you never any more?—Positively not." He was then asked whether he had never said that he had had more? What would have been the natural answer, if any man had ventured to put such a question to one of their lordships? What would have been the reply? "Certainly not;" because it had already been stated that no more than 50 Napoleons were, in fact, at the banker's. A letter was then shown to the witness, and he was asked, whether he had ever said (for he, Mr. Brougham, was not allowed to ask whether he had ever represented) that he had been in a miserable situation, and had taxed himself with ingratitude, and wished to be restored to favour. He answered, never; and that he never had been in a destitute situation. The next question was, "Were you ever in a situation to require compassion?—Never." "Did you ever ask any body to take compassion on your situation? —That may be so." "Are these letters your handwriting?—Yes." When the letters were read, it appeared in

the plainest terms, that he had taxed himself with ingratitude; and yet this honest man, this soldier of Buonaparte, sheltered himself under the word "say"—and because he had only *written* that he was in a distressed situation, he swore that he had never said it. Would any honest man think, that such a pitiful quibble would avail him under such circumstances? But their lordships would remember what passed afterwards; for he now came to a providential accident, if he might use such contradictory terms in compliance with the common understanding of them. He now came to an accident, which he called a Providence in favour of innocence, which was always the care of Providence. Sacchi was asked—"why did you change your name?" and he replied—'on account of the tumult which happened, and which made me know I should run a risk." "When did you change your name?" The answer well deserved observation. "A year ago." When he gave his first reply, he did not recollect that the tumult at Dover took place in 1820, and that he changed his name in July, 1819, before he came to this country. This was a providential circumstance, by which conspiracies were detected, and without which every one of their lordships might be a victim to-morrow. He called upon the House to give due weight to this observation, and to mark how it was borne out by the evidence in page 459. *(Ch. p. 499.)* The Attorney-General, very judiciously seeing its consequences, did not pursue this inquiry; but some of their lordships continued it: and thus a perfect picture was drawn of a shuffling witness, prevaricating and beating about the bush, to shelter himself from the consequences of an unlucky slip, by which the whole credit of his testimony was overthrown. The confusion, the embarrassment, the perplexity, of Sacchi, on this occasion, could not have been forgotten. He was asked at what time he had changed his name? He answered—"Four or five days before I set out for England. When was that?—In the month of July, last year. What was your motive for taking that name, at that time, at Paris?—To shelter myself against any inconvenience that might happen. What tumult had taken place at that time, to induce you to change your name?—I was warned that the witnesses against the Queen might run some risk, if they were known. Had you been informed that they had *actually run any risk*?—They had not run any risk

then." An opportunity was now afforded, of which any honest witness would have availed himself, of explaining the whole fact, for his former question and answer upon this point were read over to him. Sacchi, however, had only involved himself in new difficulties, in endeavouring to escape from those he had already encountered; he stated, that, while at Paris, a gentleman came, accompanied by Krouse, and told him, that it would be necessary for him to change his name, because it would be dangerous for him to come to England in his own. "Did he tell you that any tumult had taken place?—He told me some tumult, some disorder." "On what occasion did he say that tumult had taken place?—He told me nothing else." Being further pressed upon this point, he had resorted to the invariable expedient of witnesses, when driven into a corner, by stating, "I have repeated what that gentleman told me." He (Mr. Brougham) could not deny what Sacchi might have imagined; but he insisted that it was as impossible that any gentleman, known or unknown, could at that period have given him this information, as that any man should, by chance, have written the Iliad. He was afraid that their lordships did not feel this point with the force it deserved; of course, at the present moment, every body talked of tumults at home, on the arrival of witnesses against the Queen; but going back to July, 1819, when Sacchi first changed his name, what man, in his most fanciful mood, ever dreamt that such a tumult would occur in 1820? In fact, it was nothing more than an invention by the witness to cover his retreat from a position in which he had been unwarily entrapped. It was only by such circumstances as these that perjuries were detected; and this led him to remark, that if witnesses were convicted of untrue swearing on collateral points, how trivial soever they might be, it put an end to all their credibility in the main facts of the conspiracy. One of these main facts, as far as related to the evidence of Sacchi and Rastelli, another discharged courier, was of a nature so disgusting and offensive, that he felt it difficult even to make the slightest allusion to it. Did their lordships think it very likely that any woman—he might almost say the most miserable prostitute discharged from Bridewell—would commit, in the face of open day, what had been charged against the Queen by *Rastelli? Would they* believe, that with the know-

ledge that a courier was travelling by the side of the carriage, the blinds of which might be raised, the Queen would run the risk of blasting her character, even among the most abandoned of her sex, by going to sleep in the position described by Sacchi as that in which he had discovered the Princess and her chamberlain? But the credulity of the House must be stretched yet many degrees; for if it could persuade itself that this had happened once, it would be nothing to what Sacchi had sworn he had been in the constant habit of seeing, again and again. He (Mr. Brougham) appealed to their lordships, whether this story had the smallest appearance of probability; whether, unless the parties were absolutely insane, such conduct could be accounted for. He was now saying nothing of the physical impossibility of the thing, at a time when the carriage was travelling at the rate of nine or ten miles an hour, over such roads as are found in that part of Italy, with their hands placed across each other, while the parties were both fast asleep, and, of course, without any power over their limbs. To overcome this difficulty would require the evidence of philosophers, who had witnessed an experiment so new and so strange. The witness had not ventured upon any description of the carriage, excepting that it had curtains: but what would their lordships say, if it should be proved to have been an English carriage, with glass and spring blinds? What if he (Mr. Brougham) showed, that the blinds could not be raised without opening the door to get at the springs upon the inside; and still more, what if he should prove that Sacchi was not the courier who went on that journey? He did not say that it was necessary for him to prove this; on the contrary, he denied that he was called upon to do so. Why had not the other side established their case, and if cast off servants would not afford them a sufficient evidence, why had they not resorted to those still in attendance upon her Majesty? He again entreated their lordships to remember—for it was a cardinal point, that ought not be forgotten—that an accuser was not relieved from producing sufficient evidence, because good witnesses were to be found on the side of the accused. He had no right to call upon the accused to produce those witnesses; for it was the business of the accuser to establish guilt, by all the evidence he could produce. But was there any other *person in the carriage? "Non mi ricordo"* was the

answer of Sacchi, adopting the language of the celebrated Majochi: and this question was not put to him by surprise, nor was it a point that might have escaped his memory. It was a thing he could not have forgotten: he must have made the observation, whether there was any other person present, while the Queen and her chamberlain were lying there exposed. In the next place, after a person had witnessed such a scene, was it likely, that from that moment his lips should be hermetically sealed?—that he should never even whisper it to any person?—that he should never dream of confiding it to the willing ear of the gentle, romantic, and sympathetic Demont? He had long enjoyed a soft intercourse with her, both here and abroad! and if he never whispered it to her, it no doubt arose from that extreme delicacy which prevailed between them, to a degree unknown in regions less pure and refined. When the question was put to him, whether he had not related it to any one, he pursued that course which he thought most safe and best calculated to screen him from contradiction;—"I told it to people," said he, "but I cannot recollect any one to whom I told it." Did not any man perceive, that if such a thing had passed, and he had been an eye-witness of it, and had afterwards related it to any one, the witness could not have failed to recollect to whom he had so told it? He had now come to Kress's story of what happened at Carlsruhe.

Earl Grey here interposed, observing that four o'clock, the hour appointed for adjourning, had arrived; and the learned counsel did not appear to have arrived near his conclusion.

The Earl of Liverpool said, that if an extension of a quarter of an hour would have been sufficient for the conclusion, the House would probably not have objected to proceeding; but that, in the present instance, did not seem to be the case.

The Lord-Chancellor added, that it would be impossible for counsel to do justice to the case, if they were limited within any specified time. He thought it much better that the House should adjourn till to-morrow.—Adjourned at four o'clock.

SECOND DAY.—October 4.

About ten o'clock the House was called over, and several peers who were absent were excused on account of *indisposition.*

A gentleman from the Treasury presented copies of all the communications between the Lords of the Treasury and her Majesty's counsel and agents, on the subject of the pecuniary supplies for defraying the charges of the Queen's defence.—These papers were ordered to be laid on the table.

The Earl of Darnley said, that he did not consider the accounts now laid on the table satisfactory. They were limited to the supplies granted to defray the Queen's charges, instead of exhibiting the whole expenses of the prosecution. A general account of the whole expenditure ought to be produced.

Lord Erskine concurred in opinion with his noble friend that an account of the whole expense ought to be laid on the table.

Counsel were then ordered to be called in, and the *Lord-Chancellor* desired Mr. Brougham to proceed with the statement which he had broken off yesterday.

Mr. Brougham then resumed his speech:—He began by expressing his surprise at the description of the witnesses. It was most extraordinary, that with no want of care in getting up the case, and no want of sagacity in its preparation—for great display of skill and management appeared in all its parts—that with boundless resources to bring into play, those who conducted it had chosen to select their testimony almost exclusively from one division of Europe. This was evident on merely reading the names of the witnesses; and it certainly argued a great want of the required talent in other countries, when those who had to look for qualified persons confined themselves so closely to one. Why such unfairness to different states, and such a contrast between the number from Italy and other countries? The whole of the Italian states appeared to be fully represented by deputies of the lower orders, it was true, or rather of the lowest. But on this side of the Alps he found a lamentable scarcity. From all the cantons of Switzerland only one deputy appears—only one nymph for the whole Helvetic confederation. In like manner, he found that the whole of the circles of Germany were also represented by one person, and that person was a German chambermaid. This was more remarkable, as her Majesty had travelled through so much of that country. From the capital of Austria no representative appears; *and from her Majesty's* native country, where she was

best known—from that country which had been her abiding place—there was also none; from none of the states of Germany in which her Majesty had resided did any one appear. In short, notwithstanding the great number of towns at which her Majesty stopped in her passage through Germany, only one person had arrived from that country—namely, the amiable Mrs. Barbara Kress, of Carlsruhe. Whether she was to be called a chambermaid, a cellar-maid, or a maid of all work, it was not easy to determine, for there was great doubt as to her capacity; but as to her character there could be no doubt whatever. She, however, was the only German witness in support of the bill; and, save and except her Swiss colleague, the worthy Miss Demont, the only individual, not an Italian, whom the gentlemen on the other side had thought fit to bring forward. He begged their pardon, there were two great exceptions; but they were his witnesses, not their's, and he reserved them for the opening of his case. He came now to the consideration of the testimony of this German chambermaid, and here, as on former occasions, he found it necessary to resort to the witness herself for the evidence of her qualifications. Never, except in the case of the Queen, did an anxiety to fabricate evidence give rise to so much contradiction, and so completely defeat itself. This woman had, according to her own statement, been in the reputable and inexperienced situation of chambermaid of a German inn from her earliest years. If their lordships calculated the time from what she had stated in her deposition, they would find that she was just turned of 13 when she began to perform the duties of a chambermaid. In tracing her biography it would be found that she states she was then a servant with somebody, whose occupation she shows no disposition to disclose, but who turns out to be a small innkeeper. She had afterwards been in other places, though where it was not easy to discover, from the account she gave of herself; but it was worth while to consider the difficulty thrown in the way of extracting from her any satisfactory account of herself. She re-relates that she had been in such and such a place, with Mr. So-and-so—with a Mr. Merway. Occasionally, when asked in what situation she had been, she answered, a servant. She tried to sink her own occupation as well as *the business of* her master; but, when pressed, it

finally turns out that, wherever she was, except for a short while when employed as a laundress at the palace of Baden, she had always been a chambermaid at an inn; and that, however often she changed her place, she never changed her station. But in the progress of her evidence she threw a little more light on her employment, and the nature of her pretensions. In particular, it appeared in what manner she had been induced to give evidence, and to this he entreated their lordships' attention, for, if there was a want of witnesses in Germany, it was from no want of agents in that country. And here he must observe, that if there should prove to be any fatal defect in the case, it must be attributed to the witnesses and their testimony, and not to want of diligence in the agents. It would be found that, in Germany, the agents had pursued the system regularly acted upon, with the usual activity and with the command of the usual resources. Whatever mortification he might feel on recollecting that Englishmen had been employed in the odious transactions of the Milan commission, it was some consolation to find that they had not gone the length of the German agents, who had indeed far outstripped his own countrymen in disregard of the means by which they sought to promote the cause in which they were engaged. In Germany the agents were persons of high distinction. He found, for instance, that Baron Grimm, the Wurtemberg ambassador, the minister of a country, the throne of which had been filled by the Princess Royal of England, had been most active. He found this Baron Grimm associated with a person named Reden, now the Hanoverian minister at Rome, and who had been appointed to succeed the worthy Baron Ompteda in that capacity. This man had treated the Queen-consort of England, who, besides, was his Queen as much as she was their lordships', in such a manner as rendered it impossible for her Majesty to continue in the same place in which he resided, consistently with the respect due to her character. This Reden, Baron Grimm, and another person, with a long name, in the service of the Grand Duke, had been active and unscrupulous agents in the proceedings to which their lordships' attention was called. The worthy Baron had not scrupled to throw far from him all those feelings of decorum which were becoming in private life. It was, *however, possible that, in* the conduct of diplomacy, a

minister might think himself justified for acts which no other individual would commit; that it might be thought allowable in a minister to do that which would disgrace a private man; that things might honour him which would call down reprobation in private life; that he might obtain the favour of his employers, and what he called honours, for actions which, had he not been a diplomatic agent, would have called down upon him infamy and dishonour. These men certainly acted as if they had felt in the manner he described; as if they thought that in their character as diplomatists they were men bound to do all things needful, and to whom all things were equally good. When Baron Grimm heard that the Queen was coming to Carlsruhe, he was living there in apartments which he had previously hired. On her Majesty's arrival he artfully gave them up. To accommodate her Majesty he kindly left his residence, and sought other lodgings. He changed his apartments for worse; courteously, but yet insidiously, resigning those in which he had lived to her Majesty. What would their lordships think of the Baron's politeness, when they found that the very moment the Queen left the apartments, he eagerly returned in pursuit of the secret business in which he was engaged? As soon as her Majesty departed, he and another agent, whose name was also mentioned by the witness, were seen, as Barbara Kress says, "running up and down the rooms," prying into every corner, looking carefully at the furniture, and examining the beds, and performing all the degrading offices which he thought could please his employers, but which they would doubtless despise. Such was the conduct of these men, who demeaned themselves without scruple to the lowest offices. But, active as the Baron had been, regardless as he had been of his own dignity in the transactions in which he had been engaged, he had not consented to become a witness. He did not show the same boldness in facing their lordships as he had shown readiness in committing acts elsewhere which called down reprobation on his conduct. Here, however, the Baron was not forthcoming—here, where, if Barbara Kress spoke truth, he would have been a most important witness; for, having entered her Majesty's apartments the moment she left, he must have been able to corroborate the story told by Kress, respecting the state of the bed, if she had stated *the truth.* The Baron was, however, absent, and the only

witness that could be found to speak to this extraordinary fact was the German chambermaid. On looking at the evidence of this woman, some estimate might be formed of her motives for coming over to this country. She swears that she came to England from compulsion; but, on turning to the next page, it would be found that she was to be paid; or, in other words, to have a compensation for her loss of time. But she repeated only what had been put into her mouth; she had made no terms—had entered into no bargain express or implied. She looked to no payment for the evidence she was to give. This was her first story; but it afterwards came out that she had got a little payment, and the liberality with which it had been meted out was reluctantly wrung from her. Their lordships would find the part of examination he alluded to in page 193 of the printed minutes. *(Ch. p.* 171.*)* She was asked if ever she had been examined before, and she answered she had, at Hanover. The examination then ran thus:—"What did you get for going to Hanover?—I received a small payment just for the time I had lost. How much was that small payment?—I cannot exactly tell; it was little, very little." Thus, because the renumeration was so little, she could not recollect it. Being so little, it might have been the more easily recollected; but it subsequently appeared it was not because the reward was little, but because it was great, that she forgot it. What would their lordships think if it was found to be five times greater, ten times greater, than her ordinary wages at the inn? What if it doubled her whole yearly wages at the inn, perquisites and all? When such was the amount of the sum, would any person of common understanding place confidence in her testimony? Was she to be trusted in her statement of facts, who could not recollect receiving for a trip to Hanover and back again to Carlsruhe, which occupied only a fortnight, double what she could earn in a year—who, under such circumstances, said she could not recollect what she had received, because it was so little? Would any man place reliance on any story coming from such a source? She also positively asserted that she expected no reward. But it was surely enough to make that part of her evidence be pronounced false, to know that she must *have expected a* reward in future from her ex-

perience of the liberality of the past. The same equivocating manner followed her through her whole story. The way in which she described herself to have left one particular scene which she professed to have witnessed—her alleged message to the room of the Countess Oldi—her alleged care in convincing herself that the woman she saw was the Princess, when, if her business had been in the room of the Countess, she would have had no excuse for going into the other room so to convince herself—her assurance in answering the question that it was certainly the Princess whom she saw, when there were other women in the House, though Barbara Kress was the only one thought worthy to be brought here:—all these things proved that she was not satisfied with herself until she was convinced that she had fulfilled the duties of a witness faithful to the interests of her employers. He had mentioned to their lordships, that, to support the Carlsruhe scene, Grimm had not appeared here: but there were many others of the Queen's suite who might have been called, and whose absence argued strongly against the truth of the story. It was plain, from the manner in which Barbara Kress had given her evidence, and from the evidence itself, that she was not satisfied that the woman that she saw with Bergami was the Queen. He must now again beg their lordships to recross the Alps with him, and, having dismissed the testimony of the principal performers, there remained little to do; the rest were mere make-weights, thrown in to give colour and consistency to the fanciful picture, and to all of whom the same general observations which he had yesterday submitted to their lordships on the nature of the whole testimony applied. Nothing was more remarkable than the general character and appearance of the witnesses. Their employments were generally of the lowest description, and, after all the pains which had been taken to give them a respectable appearance by new clothing, the total failure of these endeavours must have struck every one of their lordships. Two of those witnesses were sailors, and he wished to remind their lordships of these men's evidence. The facts to which they swore were of a nature which it was impossible to credit. Could it be supposed that the scenes they describe could have been attended with such publicity? It was impossible to conceive that any individuals possess-

ing ordinary common sense would have voluntarily exposed themselves to the observation of 11 or 12 persons in the way these witnesses had sworn. And were witnesses to be believed who swore that, after seeing such extraordinary things, they never mentioned them? These assertions had almost rendered cross-examination unnecessary. One was asked if he ever spoke of what he had seen?—"Yes, once. Where?—At Milan, to the commissioners. Did you never mention it before?—Never." It was the same with all the rest. When Rastelli swore to scenes too disgusting to be detailed—when he swore to abominations having taken place in the face of day which could not be described, and that, too, in a situation so unsheltered that it was impossible for him to turn his head without seeing them—he, like all the rest of the witnesses to these abominations, as if the relation between cause and effect in this singular case was wholly suspended, had never opened his mouth on the subject; his lips had been hermetically sealed till he was called on by the commission at Milan. Through ten long months that witness was silent. Was he a hermit all this time? Was he living the life of a recluse? Was there no mortal ear in which he could mention it? Was there no man, woman, or child, to whom he could whisper it? To the latter, perhaps, he might not be expected to mention it; but had he no friend, no brother, no mistress, no common passenger, to whom he could mention it on the lake? Was it to be believed that no communication of such a scene would have been made, had it been true? He would show, by evidence, that the boatmen of the lake had been induced to tell stories, which they admitted had no foundation in truth, in consequence of the rewards they received from passengers. Was it credible, then, that Rastelli would have been so reserved if he had had any thing to tell? Was there one even among their lordships, whose lips were schooled to enact the courtier even when no court was present, who would not have repeated it to some one or the other? He professed he knew not even a private gentleman, who, being under no obligation to conceal it, who, not being under the seal of secrecy, would not have made wiser those persons whom he might next have chanced to converse withal. Yet these low persons, so different from the upper ranks, are so discreet, are so much more upon *their guard, feel themselves* living among persons

of so much purity, that the mention of such facts would have crimsoned their cheeks with the glow of offended delicacy. They never mentioned a syllable of what they had seen to any living being. Was this probable? Was it to be believed? The Princess was described to have been seen kissing Bergami in a boat on the Lake of Como, as often as the wind blew on it. She was seen riding in a carriage in a situation which could not be mentioned without a blush. The facts witnessed were so striking, so unheard of, so frightful, so portentous, that, if really seen, it was impossible for the beholder to remain silent a single day. But days, weeks, and months passed away, and nothing was said on the subject till the parties were called before the Milan commission. It was then, for the first time, that the lips of these persons were unsealed. But he would not admit that they concealed these extraordinary things for weeks, days, or even hours. He believed they had concealed it from the time when it first crossed their imaginations to act the part they had performed, from the time of their hearing that others had been liberally paid for slanders, and, resolving to imitate their example, until they repaired to Milan; but the concealment was no longer than the journey demanded to the place where they expected to obtain the reward of their perjury. In all this their lordships would perceive there was no variety. There was in this respect a general sameness in the conduct of these witnesses. In other respects there were differences which it might not be improper to notice. Did their lordships recollect the waiter from Trieste, Cuchi? But they could not forget his aspect, if they had his name. Did they not recollect that physiognomy—the never-to-be-forgotten expression of that face—those eyes—that nose—that lecherous mouth, with which the wretch stood there to repeat the falsehoods, the wicked suggestions of his own filthy imagination, to which he had sworn at Milan? Would they not for ever remember that hoary pander from Trieste?—the manner in which he told his story—the haggard look which gave him the appearance of an inhabitant of the infernal regions, and which must have reminded their lordships of the great Italian poet's description of a broad-faced tailor in Hell peeping and grinning through the eye of a needle? But the testimony of that wretch would be contradicted. He, at all events, should be punished. There were also others

that could be reached, but that man certainly should not escape. It would be shown, by evidence above all suspicion, that he had sworn to falsehoods. It would be proved, from the nature of the room and the situation of the doors, that what that man had so solemnly asserted could not be true. Taking even his own account of the room, it would be shown that this story must be false. It could be proved that the Queen slept only one night in all her life at Trieste; that, on the evening she arrived there, she went to the Opera, as that witness had stated, which was the only instance in which he had spoken truth. Her Majesty left the place next day, and never returned, so that she had only once in her life crossed the gates of Trieste. He would now dismiss those witnesses without further observation. He had shown them by sample, and the sample was sufficient to satisfy their lordships of the quality of the remaining part of the filthy cargo. Then came the truly foolish stories of a picture, and of chamber ornaments, introduced for the obvious purpose of varying, and adding some little diversity of decoration to, a wearisome and thrice-told tale. Whether *Iachimo* was the original offspring of our great Shakspeare's mind or not, their lordships would readily recognise more than one of the witnesses, but one especially, as the own brother of *Iachimo*. How had he represented himself when most deeply engaged in contrivances against the honour of "a Princess of this fair isle?"—

"Away to Britain
"Post I in this design: well may you, Sir,
"Remember me at court; being there quench'd
"Of hope, not longing, mine Italian brain
"'Gan in your duller Britain operate
"Most vilely for my 'vantage, excellent.
"And I did wound belief in her renown
"With tokens, thus and thus; averring notes
"Of chamber-hangings, pictures, this her bracelet;
"And, to be brief, my practice so prevailed,
"That I returned with similar proof enough
"To make the noble Leonatus mad."

An endeavour had been made here, as then, to substantiate two different cases by similar marks and tokens. Having thus disposed of evidence that ill deserved so much of their lordships' attention—having commented within narrower limits than he should have assigned under other circumstances to his observations on such a tale, he *had to solicit their* attention to one or two other

of the more remarkable features of this evidence. He should indeed be guilty of a gross abandonment of his duty if he did not claim, in a question of this kind, those advantages for his illustrious client which would be yielded as matter of right to any other individual. This was not indeed a regular bill of indictment; it was a charge thrown into the shape of a bill of pains and penalties, and it was on that account that he conceived himself to be justified in requiring evidence of the most indisputable character. Now then for a closer investigation of the nature and character of that evidence. The Neapolitan scene was, he apprehended, the first to which the testimony of any witness called for the prosecution applied itself. Here, at least, the offence was supposed to have been brought to its completion—here it was represented that after a courtship of about one fortnight the last guilt had been incurred. Here was the story of a Princess, of life previously unimpeached, of character raised, brightened, and purified, by a former investigation, described as sinking all at once into an abyss of shame and infamy. If there were truth in evidence, or benefit in acquittal—if certainty or conviction were to be derived from repeated inquiries—the previous conduct of her Majesty stood fair in the eyes of the whole world. It had undergone two solemn examinations; it had come forth so pure from the ordeal, that when one set of ministers advised a censure upon what they called "certain levities," their successors, dissatisfied with that advice, recommended the expunging of the censure, and her public reception at court by her uncle and father, as a person adorned by every virtue and accomplishment that could add grace and dignity to royal life. This, he would also beg leave to remark, was a recommendation sanctioned by some persons who were now thought to be by no means unfavourable to the present bill. According to the statement now produced, her Majesty had indeed observed the most correct demeanour up to a certain period of her residence in Italy. She at length, however, hired a servant, of whom he should afterwards have something to say. With this servant she was represented as travelling to Naples, where her degradation was complete. Here, according to the story told on the other side, did this illustrious matron, this "fair Princess of our isle," condescend to become.

the favoured mistress of a menial lover. Here did she engage in scenes and acts that never yet marked the conduct of any woman who had not been long sunk in a course of profligacy. He doubted, indeed, whether any course of profligacy could so inure the human mind to shame, so steel it against the common apprehensions of discovery, as to lead to the real exhibitions which had been so minutely recorded at their lordships' bar. How could they reconcile conduct so incautious with any of the known principles of human action? How were they to believe the romantic tale of a Princess resorting to the bed of her menial servant, quitting her own room in the middle of the night, and shaping her course to her paramour, not by the way through which she might have passed without observation, but through a room where it was next to impossible that she would not be exposed to the gaze of another menial servant? It was in evidence that she might have found a different way to her supposed destination—namely, by avoiding the corridor—and have so escaped the observation of any human eye. He would then invite the attention of their lordships to another most important circumstance. What were the preparations for this indulgence in guilty joy? What was the scene of these early loves? All concealment was described as having been laid aside, and the parties also described as acting under the influence of a violent and domineering passion. It did, however, happen, that the bed on which Bergami was resting, and to which the Princess so repaired on the second night after her arrival at Naples, was a travelling-bed, a couch framed on an iron bedstead, and intended for use only on occasions of travelling. In every other room of the house, in the apartment itself of her Royal Highness, there was provided an easy, a comfortable place of repose. Her Royal Highness's bed was nevertheless left untouched. To be sure, M. Demont had wavered a little on this subject in her cross-examination by his learned friend, Mr. Williams, as compared with the leading examination (and he meant no personal offence) of the Solicitor-General. She did not seem to be in perfect charity with his learned friend, who did conduct his operations in such a way as to lead to some slight alteration, and to induce the lady on *the third day to admit* that her recollection was

a little mended. She at length, in answer to certain questions, gave rather a different complexion to the story from that which Signor Majochi had invested it. In the first instance, the chambermaid related that the Princess's bed did not appear in any great disorder, or to have been much tumbled on that occasion. Their lordships were subsequently informed by her, that the bed did appear impressed in the centre by the figures of two persons, and that there were certain stains. Now he would put it to any man, whether it was likely that, if such facts were truly within her recollection, they would not have appeared on the examination-in-chief; whether they would have been left either to the ingenious mode of detection adopted by his learned friend, or to the general inquisition of their lordships? But the Queen was also represented as having been previously in a state of considerable agitation, and as having, for the first time, stopped the admission of Billy Austin to her bed-chamber. He would show to them, however, that her Majesty was at the Opera that night, and that Billy Austin had long possessed his separate chamber, although never excluded from that of his royal benefactress. He was accustomed to enter it whenever he pleased—it was open, it was accessible to him on the evening in question. The whole of Demont's evidence was plainly intended to support the fact of positive adultery—to persuade their lordships of a really criminal intercourse having taken place. There was something very remarkable in that passage of her statement which referred to the appearance of certain stains on the coverlet of the Princess's bed. It was scarcely uncharitable to suppose that she well understood tokens of that description, that her memory was disciplined so as to aid her invention when taxed on such a subject; because one unskilled in that kind of learning would not have so carefully noted the circumstance: it would indeed, in that case, have escaped her attention as the idle wind that blew over her head. The next important scene was one to which the same witness was equally particular in her deposition, refusing only to commit herself to dates. She, whose recollection was so wonderfully accurate as to all other matters, did not feel quite confident in this respect. The circumstances, indeed, divested of their relation to time, were stated positively enough. They had Bergami naked in the corridor, *without stockings*, or even a morning gown, there meet-

ing the chambermaid, not retiring at her approach, nor she at his, but pursuing his course with a steadiness of pace, and a firmness of composure, with which few wedded men sought their legitimate and bridal couch. So extraordinary a statement could not easily be obliterated from the recollection of their lordships. In referring them to page 251 of the printed evidence *(Ch. p. 309.)* he did but remind them of what they had not possibly forgotten. If they passed on to the occurrences at Catania, they must also be struck with some surprise, that when it was open to the Attorney-General to call two witnesses to the same fact, he should have contented himself with one. "Two servant maids," said he, "were sitting in the room next to that of Bergami, both saw the Princess come from Bergami's room at an early hour, and they heard a child cry in that of the Countess Oldi;" in other words, both knew and had watched all that took place. How, then, did it happen that only one of these individuals was called by the Attorney-General? No intimation was given that they had ever communicated together, or that the falsehood was of joint production. One only was called, and what was the amount of her narrative, admitting for a moment all its multiplied improbabilities? Bergami slept in a room not adjoining to, or communicating with, the Princess's apartment; separated from it by a court which formed the centre of the building. This was the case whilst he was in good health; but he became sick—he was visited by a severe fever. It was then that he was brought from the room which he had previously occupied, to that of the Countess Oldi. Singular scene for carrying on of an amour—singular occasion for the exchange of mutual endearments! It was not when he was in health, but when he was sick, when he lay more as a patient than a lover, that her Royal Highness was described as bending amorously over his couch. To him it appeared difficult to conceive an opportunity worse selected for the accomplishment of the supposed end—circumstances or a scene so perfectly embarrassing. Under the arrangement as set forth in this evidence, the Princess was obliged to pass during the night by the room of her two servant women, in order to reach that of Bergami. A woman of ordinary prudence, having a similar object in view, and in possession of the *means of altering* the occupation of the different

rooms, would have selected apartments contiguous to each other. By disposing of them differently, the servants might have been removed to a greater distance, and the intercourse between the Princess and Bergami might have been carried on without interruption or discovery. With a very little foresight those servants might have been kept from approaching the threshold of these chambers. But, if they were to believe the representations made to them, her Majesty had been all along engaged in a conspiracy against her own happiness, comfort, honour, and existence. It had been the uniform tendency of her tactics to multiply damning proofs against her own character. She had studiously consulted, courted, her own ruin. But he had been told that he might contradict this testimony by producing Mariette Demont. She, he was told, might possibly show that it was a foolish and incredible tale to describe her Royal Highness as never doing one single act that had not a direct tendency to injure her own interests, and tarnish her own reputation. He would, however, contend confidently, though with all humility before their lordships, that it was incumbent on those who instituted this prosecution to have led that witness to the bar. She was, according to every rule of judicial inquiry, their witness. There was no judge who would dispense with her evidence on any criminal proceeding. Here the exigency of decisive, conclusive, incontrovertible proof, was greater than upon any criminal prosecution conducted by the forms of law. To support a bill of pains and penalties, every ordinary rule, every principle of judicature, became more important. They who were placed in the situation of defendants by a measure of that kind had to complain, not of accusation, but of oppression. If justice reigned in that place, the obligation of producing Mariette, and of opposing her testimony to that of her sister, could not be cast on the defence. No such proceeding would be admitted in any case affecting life or limb. Let their lordships put, for a moment, the case of a civil suit, of an action of debt, and remark how clearly the law distinguished between the trials of questions relating to property, and those which imposed penal consequences. It would not be necessary for him, in establishing his claim of debt, to call the clerk or servant of his adversary; but if he charged a criminal offence he *was bound to produce* the very best evidence of which

the question would admit. Even though connected with the adverse party, no individual possessing knowledge of the subject matter could be dispensed with, if there was any practicable mode of obtaining his testimony. Suppose the trial of a highway-robbery: their lordships well knew that the account given of the transaction by a Bow-street officer, perhaps panting for his reward, would not be deemed sufficient. Neither would the evidence suffice of an accomplice tainted by his own confession, or of a spy degraded by his vocation. On the contrary—if the party's own friend, acquaintance, servant, or any person other than his wife, had witnessed the facts stated on the record, that individual must be called for the prosecution. He would venture to assert that no English judge would suffer any man to be placed in jeopardy of his life without this precaution. The prosecutor was bound to call every sort of unsuspicious evidence that was accessible to him. No person in the character of a defendant ought to be required to produce the relations of the witnesses against him. It was a fundamental principle of English law, as well as the obvious dictation of common sense, that every one should be presumed innocent till guilt was fairly proved. Their lordships could not fail to perceive that her Majesty was in a most singular situation. After all that she had suffered and passed through, it was impossible that she should not open her mind to some construction of the motives by which those about her were actuated. It would not be surprising if in some instances she formed an uncharitable judgment. The long period during which her oppressions had continued, the manner in which she had been so often surrounded and betrayed, the hidden artifices scattered beneath her feet, might have naturally awakened in her mind suspicion and distrust of all who approached her. After fostering those who now attacked her, after her experience of the Omptedas, the Grimms, the Radens, and, above all, after this new process, it would be extraordinary if suspicions did not find their way into an otherwise unsuspecting heart. It was not easy for her to distinguish between enemies and friends; it was possible that she might even now be cherishing another viper. The case was, however, left short by the Attorney-General; and, on her Majesty's behalf, they were driven to the necessity of supplying its defects. *Her Majesty* had all along corresponded

with Mariette, with the sister of Demont; she knew nothing to the prejudice of her character; and, let the result be what it might, Mariette would be presented at their lordships' bar. He would not say that this was prudent; he knew it was not essential to the defence. It had been said, too, by a great authority—by him "who fulmined over Greece" in words of fire, that "the best security of a feeble heart was not to be found in any outworks, or ramparts, or safeguards raised by the hand of man against the fraudulent or the powerful, but in mistrust; and that this was a feeling implanted by nature herself, for the preservation of innocence." Against agents and spies so unscrupulous as the Omptedas, the Demonts, and the Sacchis, some degree of circumspection was most needful. Their lordships would likewise admit that there was no obligation on their part to bring forward the testimony to which he was alluding. Had the professional advice of himself and his learned friends been called for, they might perchance have felt it to be their duty to awaken suspicions where none at present existed. Her Majesty, however, had seen no reason to doubt the motives or character of a faithful servant, and this servant would therefore be produced. It was at the same time manifestly gratuitous on the part of her Majesty; it was an act that could only proceed from conscious innocence. He would now draw their attention shortly to the transactions at Charnitz. Incredible as they were, he should have passed them over in silence, had they not appeared to make a transient impression on the minds of some amongst their lordships. Demont had sworn that the whole night subsequent to Bergami's bringing the passport was passed by him in her Royal Highness's chamber. This was false—he should disprove the whole representation, and show that she commenced her journey within an hour and a half after the arrival of the passport; that this time was, indeed, scarcely sufficient to pack up, and mature the preparations. She lay reclining on her bed, in a travelling dress, and with the room-door open, during this whole period. So at Carlsruhe she would be shown at a music party, and proved to have supped at the Margravine's, whilst Bergami was at home ill, with his sister and child, on the very evening which they were represented to have passed together. Some were so very inattentive to *the nature of* conspiracies, and the characters that

marked the most artful and deliberate falsehoods, as to suffer doubts to cross their acute and ingenious minds, arising from the very inadequacy of the evidence. If, they said, it were a plot, it would have proved the whole charge; if the evidence were fabricated, it ought to have convinced all mankind; if it were all the inventions of conspirators, it must have been so full and complete as to leave no part unsupported: but here things were proved, and omissions made which were utterly inconsistent with a plot. Could those acute and ingenious persons forget that there were two things to be attended to in getting up plots and conspiracies—one of which was common to all conspiracies, and the other of which was uniformly observed in this case. The first was, that the witnesses should not swear too hard, that they should not prove too much, but that they should speak to facts and circumstances founded in nature and consistent with experience; and the second thing was, to take most especial care not to call two witnesses to the same point. These witnesses, sure to be exposed to no contradiction, because none was to be called to the same facts, were to state their several stories as mode-

rately as possible. The architects of this structure had been most careful to observe the rule of calling only one witness to each circumstance. If this care had not directed their course, why had only one witness been called to the scene at Naples? Why had not two witnesses been called to this most material part of the case? Why, but because it was dangerous to call more than one? So it was with every part of the case—one witness was called to the fact, and one to confirmation. The one was to tell truth, and the other falsehood. One was to tell a falsehood which would bear upon the charge brought forward, and without which the truth could be of no avail. Another told an essential truth to give confirmation to the falsehood. At Naples his learned friend had opened what, if it were not invented and fabricated, ought to have been proved by a cloud of witnesses. When at a masquerade, the Princess of Wales, even although in a mask, must have been known, and the circumstances alleged to have been observed, if true, must have become at once public. But the events of that masquerade, like the fictions of this plot, lived only from night till morning. If the story told were true, it would have been widely circulated; all the *gossips would be full of it,* and could talk of nothing else:—

Et otiosa credidit Neapolis,
Et omne vicinum oppidum.

Yet to this only one witness had been called. Why had no witness been called to speak to the beds;—why none to speak to the linens? What became of Annette Preising? He was able to tell their lordships. She was now in this country. Why had she not been called?—Because she was not an Italian. She could have given the most essential evidence if there were any truth in the statements opened to their lordships; she could have spoken to the passages in the rooms mentioned. Could she have spoken to the beds?—She made them. To the linens?—She had the care of them. Who washed the linens?—The washerwoman might be an Italian, for aught he knew. The learned gentlemen on the other side knew well the importance of a washerwoman's evidence; they had seen by experience the effect of it, in proving charges like the present. They knew the effect of it by experience of its importance in the Douglas plot. They knew by experience that, if such a witness could have stood a cross-examination, this plot could not have failed. Was he to be told this was not a case of adultery? Why, what meant the evidence offered, if it was not a proof of adultery? He needed to say no more to prove that the whole case failed; for their lordships ought not to compel him to refute a case brought forward and supported as this was. But, if they believed the evidence, it was as clear a case of adultery as had ever been known in Westminster-hall. If they believed Demont—if they believed Majochi—if they believed Sacchi, they could have no doubt of the adultery having been committed. If they believed Sacchi, when he said that he had seen Bergami twice going to the bed-room of the Princess of Wales and remaining there, they could not doubt that adultery had been there committed. If this was true, then the Queen was worse than Messalina, or as bad as Marie Antoinette was represented to be when the Jacobins of Paris covered themselves, even themselves, with complete infamy, by the charges against their Queen. Another remark he had often heard made upon the case against her Majesty, and the observations offered in reply to that case:—"O," said some acute sifters of evidence, "O, you have damaged the witness only by proving falsehoods in unimportant particulars." This *remark could not* come from law-lords, who could not

fail to see how ridiculous such an objection must always be. He granted, indeed, that if the object were to confirm an informer, the confirmation must extend to important parts of his testimony; and a confirmation as to some slight circumstance would deserve no weight. But it was quite the reverse in pulling down a perjured witness, or a witness swearing falsely. If that witness's testimony was false in the least particular, that falsehood destroyed the whole credit of the testimony. Could it be said that they ought to believe part, and to disbelieve part, of a witness's testimony? He would admit, indeed, that there might be parts which the witness of truth might be ignorant of, or which he might have forgotten; and that by separating mere mistakes of ignorance or forgetfulness, and culling the parts that were sworn to from knowledge and correct recollection, they might obtain evidence to be relied on. But if a witness swore not only what was not true and not correct, but had falsely sworn what could not be true—if a witness swore to his own invention—if he swore, to use plain language, a lie, in any particular, however unimportant—good God! what character was safe? What escape remained for the purest innocence from the toils of an enemy, or the fabrications of a conspirator, if they believed one word of such a witness's testimony, and separated the lie from the other part which rested on the credit of him who fabricated the lie? What person could be safe from mercenary and spiteful villains? One of their lordships might be charged with a crime that nature abhorred—a crime of the greatest horror to his mind, and the greater in proportion as his mind was alien from the very thought, and his feelings alive to the infamy of the bare supposition. The best and most distinguished of their lordships might to-morrow be placed in the situation of one so charged, and must be convicted if a perjured scoundrel was to be believed upon such a principle of selection and separation of evidence. If one of their lordships were so charged with a crime which in this country was held in such abhorrence, that even the charge, contrary to strict justice, destroyed reputation before trial, he must forfeit his reputation if the charge should be supported as it might be, and the principal part of the testimony were believed. No perjury could be detected in the principal circumstances. All the skill and *experience of the ablest* counsel might attempt such de-

could offer with the utmost respect. From the most powerful of all who had had means of knowing her Majesty's former course of life, from our late revered Sovereign, he held in his hand a testimonial which could not be read without sorrow. It was a melancholy proof of her Majesty's conduct—melancholy, because he who gave it was no longer among us; but it was a proof given by him who knew her better than any, and who loved her better than the rest of his family; although there was in the family one on whose love and affection she had stronger claims. It was painful to perceive the sense which his late Majesty entertained of the conduct of others towards his daughter-in-law and niece. The letter to which he alluded he begged leave to read:

"*Windsor-castle, Nov.* 13, 1804.

"My dearest Daughter-in-Law and Niece,—Yesterday I and the rest of my family had an interview with the Prince of Wales at Kew; care was taken on all sides to avoid all subjects of altercation or explanation; consequently the conversation was neither instructive nor entertaining; but it leaves the Prince of Wales in a situation to show whether his desire to return to his family is only verbal or real,—(the difference between verbal and real was a difference which Geo. III. never knew)—which time alone can show. I am not idle in my endeavours to make inquiries that may enable me to communicate some plan for the advantage of the dear child for whom you and I with so much reason must interest ourselves; and its effecting my having the happiness of living with you is no small incentive to my forming some idea on the subject: but you may depend upon their not being decided upon without your thorough and cordial concurrence; for your authority as mother it is my object to support. Believe me at all times, my dearest daughter-in-law and niece, your most affectionate father-in-law and uncle,

"GEORGE R."

This was the opinion of that good man, of a man not ignorant of life, and no mean judge of human character, of the fitness of her Majesty for the care of his granddaughter. He might now read another letter, from the illustrious successor of George III.; it was not written in the same tone, it was not indicative of the same regret, and confidence—it was not indicative of the same regret, but it was by no means indicative of want of confidence, or of a wish to impose trammels on her to whom it was addressed. But this letter was known to their lordships. It expressed, indeed, a desire to live separate, and it contained a plain indication that her conduct, at least, would not be watched with the rigorous vigilance of scrutinizing agency on which this case was founded. The learned *counsel here read the letter*:—

Windsor-castle, April 30, 1796.

"MADAM,—As Lord Cholmondeley informs me that you wish I would define, in writing, the terms upon which we are to live, I shall endeavour to explain myself upon that head with as much clearness and with as much propriety as the nature of the subject will admit. Our inclinations are not in our power, nor should either of us be held answerable to the other, because nature has not made us suitable to each other. Tranquil and comfortable society is however in our power; let our intercourse, therefore, be restricted to that, and I will distinctly subscribe to the condition which you required (a condition which she never required nor even alluded to) through Lady Cholmondeley, that even in the event of any accident happening to my daughter, which I trust Providence in its mercy will avert, I shall not infringe the terms of the restriction by proposing at any period a connexion of a more particular nature. I shall now finally close this disagreeable correspondence, trusting that, as we have completely explained ourselves to each other, the rest of our lives will be passed in uninterrupted tranquillity.

"I am, Madam, with great truth, very sincerely yours,

(Signed) "GEORGE P."

He (Mr. Brougham) did not term this, as it had been termed, a letter of license. That was a term applied to it by those who, unhappily for her Majesty, were now no more. But it could not fail to be matter of wonder to those who read this letter that her Majesty had been watched with so much rigour—with a rigour that increased as the parties advanced in life—that she should have been beset with such unconstitutional, unsparing, and most malignant watching and espionnage. Such, then, was the case before their lordships. He begged again to call their attention, at the risk of fatiguing by repetition, to the two grand points of defence which he hoped their lordships would never dismiss from their minds:—first, that the case was not confirmed by witnesses, for neglecting to call whom there was no pretence whatever: the second point was, that every one witness that had been called was injured in credit. How but by these two tests could plots be discovered? Plots were often discovered by the second, when the first failed. When persons in respectable stations in life, previously of unimpeached characters, were got to give evidence in support of fraud and falsehood, the innocent must despair; escape became impossible, unless the plot appeared through the evidence—unless the testimony of the witnesses broke down under them—unless some points, entirely neglected, or incautiously secured, exposed the whole fabrication to ruin and destruction. Their lordships *would recollect an illustration* of this, which was to

be found in a great passage in the sacred volume. He called it a great passage, because it was full of instruction, because it was just, because it was eloquent. The two judges were prepared with evidence fitted to their object, and well arranged. They hardened their hearts, that the look of their innocent victim towards heaven could not divert them from doing the purposes of unjust judgment, or from giving a clear consistent story. But their falsehood was detected, and their victim was saved, by the little circumstance of a mastick-tree. This was a case applicable to all conspiracies and plots. This little circumstance was of the unessential, but decisive kind, which the providence of Heaven made use of to detect perjury. Such were Demont's letters; such Majochi's bankers's clerk. Those circumstances were not important to the body of the case, but they were important to the body of credit belonging to it. "Such, my lords, is the case now before you, and such is the evidence by which it is attempted to be upheld. It is evidence—inadequate, to prove any proposition; impotent, to deprive the lowest subject of any civil right; ridiculous, to establish the least offence; scandalous, to support a charge of the highest nature; monstrous, to ruin the honour of the Queen of England. What shall I say of it, then, as evidence to support a judicial act of legislature, an *ex-post facto* law? My lords, I call upon you to pause. You stand on the brink of a precipice. If your judgment shall go out against your Queen, it will be the only act that ever went out without effecting its purpose; it will return to you upon your own heads. Save the country—save yourselves. Rescue the country; save the people, of whom you are the ornaments; but, severed from whom, you can no more live than the blossom that is severed from the root and tree on which it grows. Save the country, therefore, that you may continue to adorn it—save the crown, which is threatened with irreparable injury—save the aristocracy, which is surrounded with danger—save the altar, which is no longer safe when its kindred throne is shaken. You see that when the church and the throne would allow of no church solemnity in behalf of the Queen, the heart-felt prayers of the people rose to Heaven for her protection. I pray Heaven for her; and I here pour forth my fervent supplications at the throne of mercy, that mercies may descend on the people of this country richer than their

miers have deserved, and that your hearts may be turned to justice."

After a pause, *The Lord-Chancellor* inquired, what course the counsel against the bill now intended to pursue?

Mr. Denman said, his learned friend, Mr Williams, would address their lordships, with their permission.

The Lord-Chancellor said, he now understood that Mr. Williams, not having yet spoken, wished to address their lordships. The rule was, that one counsel should open the case, and, when the evidence was called, that another should be allowed to sum it up, and observe on its bearing and tendency. It was quite new to allow two speeches to be delivered before evidence was adduced. In this important case, however, he conceived their lordships would exercise a sound discretion in permitting Mr. Williams to address them, though it was contrary to the usual practice.

Mr. Williams then came forward to the bar. He could, he said, assure their lordships that no man could feel more sincerely, on this occasion, than he did, the various disadvantages he had to encounter; no man could possibly be more aware than he was of the pressing difficulties under which he laboured, when he was about to address their lordships on this most momentous question. He alluded not to the incidental circumstance, that it remained somewhat in doubt whether the privilege or the right to speak might be allowed to him at all (a circumstance, nevertheless, not wholly unimportant with respect to a due preparation for the occasion)—neither did he now advert to the severe demand which he should be compelled to make on their lordships' patience—a demand perhaps the more severe, because it was in some degree unexpected; but he adverted to his fate or fortune, or whatsoever else it might be termed, which brought him next in succession to the consideration of a subject, which he would not say had been discussed, but which had been dissected, torn in pieces, and laid before their lordships, quivering, writhing, and trembling, by the marvellous machinery which his learned friend brought to bear on this and every other question. In treating this subject he would cast behind him every unfair consideration—and, having expressed this sentiment, he could at once, he hoped, be believed, when he said that he deprecated most decidedly any notion that he stood *forward from a spirit of* competition. The present *was a case marked by this* distinguishing feature, beyond

any other that had hitherto occurred, from the commencement of the world to the present hour, namely—that it presented to the mind nothing but pure and unmixed evil, without the slightest portion of benefit. His learned friend had evinced an enlarged intellect to comprehend, a power to express, a courage to meet all difficulties, a varying and shifting attitude, suited to every change in this case, in the course of his honourable and glorious exertions—exertions, the force of which was then alive in the memory, in the judgment, and in the feelings of that House. It now became his office, after the labours of his learned friend, to collect the scattered remnants, which, in the course of the proceedings on this bill, might have been overlooked or left behind, in order to fill up that measure of condemnation, which, with all his heart he hoped, and in his conscience he believed, was not remote or distant, but now awaited this prosecution, though it was the third which had been directed against his Royal mistress the Queen. He would ask their lordships, who were the parties in this case? That surely was not an immaterial consideration, before he proceeded to any thing else. He was aware that it had been with difficulty that they had attained a certain degree of knowledge—that some explanation had been allowed with respect to the party to whom her Majesty's counsel were opposed. They originally knew that they were opposed to some person or other, and the power was not the less formidable for being imperfectly divulged. But, not to speak disrespectfully of the name of his Majesty, the King—that name which in itself was "a tower of strength"—a name which, nevertheless, stood in the front of this bill—it was now past speculation—it was now no longer a matter of doubt who the prosecutor was. On the one side, their lordships saw arrayed before them all the weight of the Crown—power, authority, wealth, influence, (that influence from whence a large portion of this evidence was derived); and, on the other, her Majesty the Queen, borne down by a series of harsh treatment, to which allusion had already been made—(and on which he would say no more at present)—"shorn of her beams," deprived of her honours—a Queen, who, with reference to this prosecution, had, in the vicissitudes of fate, by the changes of fortune, by the death of some persons, by the casuistry of office in others, been deprived of the *most powerful, the* most active, and the most zealous of

her defenders. It was necessary, with respect to this view of the case, if their lordships wished to allow the free and fair operation of their minds, that they should combat strongly against any thing like the ascendency of power on the one hand, opposed as it was to the helplessness, the desertion, the want of friends, and the absence of protectors, which appeared on the other. They were told, by a wise people, to whom reference was frequently made, and not without reason, that this caution, with respect to the paramount authority of the accuser, ought to be strictly and vigilantly exercised; because, if it were not, that authority might be productive of much abuse:—"*Semper in hac civitate* (said Cicero), *nimis magnis accusatorum opibus et populus universus, et sapientes, ac multum in posterum prospicientes judices restiterunt*"—a testimony, which, at the outset, he would take the occasion to notice as remarkable on this ground, that it showed the opinion of the universal people of Rome, and of the wise and provident judges, to be one and the same. Cicero went on thus—"*Nolo accusator in judicium potentiam afferat, non vim majorem aliquam, non auctoritatem excellentem, non miniam gratiam; valeant hæc omnia ad salutem innocentium, ad opem impotentium, ad auxilium calamitosorum; in periculo vero, et in pernicie civium; repudientur.*" Their lordships ought, and he doubted not would, exert a powerful caution, and keep their minds perfectly clear from any undue bias, in the course of this conflict, in order that strict, impartial, and equal justice might be awarded to the parties. There was another topic to which he would take leave to allude. He would not waste their lordships' time by stating, after the many discussions they had heard on the subject, the whole course of proceedings adopted in the courts below; but he would observe, that it was an invariable and sacred rule in those proceedings, that on the evidence in the case, and on the evidence only, was the judgment to be formed. In this case, also, he trusted that no previous opinion—that no preconception, from whatsoever quarter it might be derived—that no rumour, however frequent it might be (and, for any thing he knew to the contrary, rumours might have been frequently repeated)—should be suffered to interfere with the case; but that the evidence, and nothing but the evidence, would be the rule and criterion of every noble lord who heard him in deciding on this most important question. Without this sentiment prevailed,

no longer could there be any chance for the party accused; without that feeling existed, he knew not by what secret power—he knew not by what doubtful means—he knew not by what hidden springs—he knew not by what obscure motives, conclusions might be arrived at, and acted on. But this he knew, that, except by an open, a public, a fair, and an equal examination of evidence on both sides, justice could not be administered. While he was on this subject he wished to call their lordships' attention to another part of the case, not altogether unconnected with it. How did her Majesty the Queen stand at present? She stood under those difficulties of defence which he had ventured to urge—placed in the midst of proceedings which had not the most remote analogy to those carried on at any other tribunal. She was most critically situated, and had to surmount a variety of difficulties, which, in the case of no individual that stood at the bar of any other tribunal in England, ever had been, or ever could be encountered, while the law remained the same as it was at present. Let their lordships examine the question; and, though the subject was not new, he was sure he should stand excused (thinking, as he did, that it was a matter which pervaded the whole cause) if he called their attention to the manner in which the evidence was brought forward. It was intimately connected with the defence, and went, in fact, to the bottom of the whole proceeding. Whether he was or was not founded in the remarks he was about to make, it would be for their lordships to decide. Was there any instance, he would ask, in the history of the law of England, in which a party accused had been kept in ignorance, until the time of trial, of the precise nature of the charges that were to be preferred—of the time, place, and circumstances, under which the accusation was made? He would say fearlessly that there was none. Let them, first of all, take the more formal or technical part of the instruction, if he might use that term, with respect to the party prosecuted. In the first instance, the indictment must specify a particular day and place. He was aware that it sometimes covered a considerable portion of time; but, he would appeal to every learned judge who heard him, if a crime were committed on the first of January—if a robbery were then perpetrated, or a house were broken open—whether an individual would be allowed, for the mere love of fiction, from a vicious love of con-

tradiction, to charge the offence as having been committed on the 1st of June? No; the party was informed of the time when, and the place where, the matter advanced against him as an offence was committed, as nearly as it could possibly be ascertained. Was that all? Had not the party accused been previously committed? Must he not have been committed by some magistrate of the county? and, being so committed, must there not appear, on the face of the writ, a description of the offence? In 99 cases out of 100—in 999, he might say, out of 1,000, a previous examination, a previous hearing, took place in the presence of the accused and of the witnesses adduced against him; and by means of that previous inquiry he obtained a distinct knowledge of the time and place, as well as of the persons to be brought forward in support of the charge. If it were a wicked fabrication, if it were a gross conspiracy to oppress the accused, he must at least have a specification of time and place, together with a knowledge of some of the witnesses who were to sustain the case against him. Not without reason, therefore, did the Queen complain that the crime charged against her was extended over three-fourths of the globe, without any particular specification of time, but a mere general statement that it had occurred in the course of six years, and without any knowledge of the witnesses until they came before their lordships. Well, in his judgment, might the Queen complain that she came to her trial under complicated disadvantages—disadvantages that would not attend the trial of any other individual whatsoever, no matter what was the subject of accusation, within the realm of England. He begged leave to illustrate this fact, and he would put the case to every noble lord who heard, and particularly to those who were conversant in judicial matters:—Suppose a charge of felony, of murder, of burglary, or of robbery, to be made against an individual; and suppose it to be committed on any assignable day; the party accused was committed to prison, and the trial came on. Suppose it was a circumstantial case, and evidence was adduced in support of it from various suspected quarters, while no testimony of a contrary nature was brought forward to oppose it. He would admit it to be a case of such suspicion, that the prudence of the judge and the conscientious feeling of the jury could not shake off: *what would then be* the situation of the accused party?—*Why the learned* judge would say, "If this

suspicion that hangs round the prisoner be confounded —if it be really true that what looks like guilt ought not to attach to this individual—why is he silent? Why does he not produce his exculpatory proof? The thing was fresh; the proper time and opportunity for defence allowed, and yet he has failed to prepare himself." Reasoning thus, the conclusion was irresistible; and a man might be convicted of any crime under such circumstances. But he would contrast this with a case that bore some similarity to the present. What if the individual accused was supposed to have committed the offence six years before? Would any learned judge consistently with common sense—on which the law was founded—condemn the individual because he could not procure evidence, after such a lapse of time—when witnesses might have died—when memory might have failed —when difficulties might have interposed, which at an earlier period had no existence? No, on the contrary, this would be the language which the judge would hold: "Why was not this charge brought earlier? What is the reason of this delay? Why has this accusation slumbered? Do you expect a miracle from the accused? Do you now expect the minds of individuals to be so alive on this subject, as to recollect persons, places, and events, which must by this time have faded from their memory?" Such would be the language of the judge. The remoteness of the period—the lateness of the charge, to which if answer could be given, that answer should long before have been called for—those circumstances must be considered as the salvation and deliverance of the accused, for large and liberal allowance was always made for those who were thus situated. When a charge was speedily brought powerful means often arose to defeat it, and those means might, on the moment, be made available. But, after a lapse of years, the facility by which an accusation could be met became narrowed and contracted. If the attack were made at the time when the offence was alleged to have been committed, the accused party could perhaps answer it; though, when a long period had elapsed, it might not be in his power to do so. Why were these preliminary remarks made? Because he conceived the nature of the case required them, however little their lordships might be influenced by them. Petitions had been presented to *their lordships,* calling on them to grant to the Queen *something like* that which every subject of the

realm was entitled to by due course of law. To the wisdom of their lordships it had, however, seemed meet to refuse those several requests. He now demanded of their lordships respectfully, but, in pursuance of his duty, firmly and boldly, if they would pursue the plain and direct course of justice, to extend to the Queen the full advantage which she ought to derive from the delay that had taken place. That advantage consisted in what he would now state; they would expect the evidence to be clear, consistent, and precise. Now, in proportion as this charge had been delayed, their lordships would consider, that by this very delay a difficulty was imposed on the Queen, which, while human nature remained as it was at present constituted, must necessarily exist,—namely, that witnesses might have died, and that the recollection of time, place, and circumstance, must in the course of years be impaired. If the charge had been preferred about the time when the offence was said to have occurred, it might have admitted of a ready answer, though it might not admit of such an answer now. How then was her Majesty to be defended before their lordships? By their lordships exercising a vigilant control over the prosecuting party, in proportion to the hardships which were visited on the Queen. She was surrounded with difficulties, and, in proportion as those difficulties were great, should their lordships, in hearing her case, be vigilant, indulgent, and forbearing, thinking it enough if a substantial answer were given; for he would boldly say, that to answer the accusation point by point would be a miracle. He would say, that unless the caution which he had recommended to their lordships were adopted in examining the adverse case, and unless they extended the utmost indulgence to her Majesty, they never could hope to satisfy the judgment of the country. They ought to take special care, if that took place—which God, for the safety of this kingdom, avert!—if her Majesty should be condemned—that it should not be by means, by the operation of which no individual in the history of this country had ever suffered in his life or liberty, in his character or his fortune! These preliminary remarks were well suited to that temper of mind which he called upon their lordships, not as a matter of favour, but as a matter of right, to exhibit in their examination of the adverse case, and in their *preparation* for that which would be *offered in reply to it by the* accused party. In speaking

of the whole case, and before he came to examine it in detail, it was impossible not to see, and, seeing, not to admit, that the supposition which had been made by his learned friend, the Queen's Attorney-General, who had, indeed, anticipated the whole of the case, was completely substantiated by a perusal of the evidence—namely, that the whole case on the adverse side was founded and bottomed in perjury. That was a point which, in his view of it, could not be denied. However fearful the conclusion excited in their lordships' minds might be, on finding that distinct perjury had been committed before them, was it entirely new in the history of the judicial proceedings of this country—aye, and of the witnesses of this country too—to find a set of persons giving a series of testimony relative to minute details and trivial circumstances, of whom it was as clear, at the conclusion of the case, that every one had perjured himself, as it then was that he was speaking at their lordships' bar? Was the present case wholly without a motive to produce the perpetration of similar guilt? Had they never heard in the history of their country of individuals—he would not say having been got up, but—presenting themselves as volunteers for the commission of perjury? Was it an unheard-of circumstance that low-bred persons should have a disposition to insult and trample upon their superiors who had fallen from power, or who, at least, were in obloquy with those that were in power? Was it only in ancient Rome that a disposition existed to triumph over the prostrate fortunes of illustrious individuals? Was it only in ancient Rome that the rejected favourite of Cæsar was liable to the taunts and ignominies of the vulgar? Was it only there that the cry was raised—

——" Curramus præcipites, et
" Dum jacet in ripa, calcemus Cæsaris hostem?"

Were not their lordships aware that that very enemy of Cæsar, who was thus to be spurned and trampled upon, had been but the previous moment living in the midst of imperial favour? Did not they recollect that the satirist indignantly asked—

——" Quo cecidit sub crimine? quisnam
" Delator? quibus indiciis? quo teste?"

Did not they recollect that he added—

" Nil horum; verbosa et grandis epistola venit
" A Capreis?"

Or, in other words, that a large and swollen green bag *came over from Milan*? So that it was not quite unfore-

seen that persons might be found, who either from a love of power, or from a desire to worship the rising Sun, or from their own base, and ignoble, and degraded natures, might be led to increase the misery of the distressed, and heighten by calumny the anguish of the fallen. But was there no other motive, besides those which he had just enumerated, that might be attributed to the witnesses produced against his illustrious client? Was there nothing in their evidence calculated to show that a belief existed—was there nothing in the Milan commission itself calculated to excite such belief—among the inhabitants of Italy, that they would not go unrewarded if they came forward with testimony against a Princess who had before been the object of calumny and insult? He begged leave also to impress upon the recollection of their lordships, that not only the government of this country, but also the government of foreign countries, had been concerned in getting up the prosecution against her Majesty. He did not make this assertion upon idle grounds: it had been proved to them in evidence; and, as one instance was much more decisive than a thousand unmeaning generalities, he would refer them to the printed minutes. He would refer them to the evidence of Barbara Kress, in which they would find a brace of ambassadors and a brace of ministers engaged in the worthy and reputable purpose of packing up and packing off a whole cargo of those valuable commodities which had been recently landed on the shores of this free country. The names of those ministers were mentioned in the evidence: they were representing, or, he should rather say, that they were misrepresenting, states which, as they were inferior to England, were, in some degree, under its control; and yet they did not hesitate to descend to the very honourable, the very dignified, and the very well-concerted plan of getting up witnesses against her Majesty. He felt himself bound to lay these facts before their lordships, and to call their attention to the conduct of the ministers Berstett, Reden, Grimm, and Grilling, as detailed by Kress; for by so doing their lordships would see that something very like an undue influence had been exerted to enforce the attendance of witnesses against her Majesty. There was also another subject which he wished to bring under the notice of their lordships—he meant the manner in *which the* witnesses for the prosecution *had been remunerated.* Might he be allowed to ask, whe-

ther the cross-examination of the witnesses had been conducted by her Majesty's counsel with a forgetfulness of that point, or whether allusion had not been made to it so often by them as almost to have excited the disgust of their lordships? Had they not put questions relative to the manner in which they were to be remunerated to every witness who had been called? and had there been an instance of any witness acknowledging the receipt of money after the effect of the excessive payments to the captain and mate of the polacca had been discovered? Was not that very circumstance even more condemnatory of the case than the excessive payments which had been made to the other witnesses? There had been no desire on the part of her Majesty to shrink from such an inquiry: her advocates had even courted it, and had been loud and clamorous in their demands for an explanation upon that point. Had that explanation been given by those who conducted the present prosecution? No, it had been carefully and cautiously withheld. Another point, connected with that on which he had been just speaking, deserved the attention of their lordships. They had not, he trusted, forgotten that his learned friend, the Attorney-General, at the conclusion of his case—for, without meaning him any disrespect, he (Mr. Williams) must call it his (the Attorney-General's) case, from the manner in which he had conducted it—had made a singular application for delaying the further proceedings of this bill, on the ground that certain witnesses, who were wanted to prove an act of adultery at Lugano, had not arrived in the country. Singular as that application was, it had been made. A night intervened. In the morning that application was relinquished. The reason was apparent. In ordinary cases such an application could only be sustained by calling the attorney, or some agent to the party, to prove, upon oath, that the evidence of the absent, but expected witnesses, was important to the case. Had any evidence to that effect been tendered to their lordships? Had Mr. Powell, whose presence in court such circumstances absolutely demanded, been called before their lordships? No; the application had, as he had before stated, died quietly away; the opportunity had been allowed to perish, which had been offered to the adverse party, of proving that it was an unjust accusation against them to say that they had disbursed large *sums in procuring* witnesses from Italy, or that they had

afforded funds to their foreign commissaries, to their agents in law, to their agents in equity, and to their agents militants—indeed, he knew not by what terms to designate them—to procure men whose consciences were vendible. That opportunity, which they ought to have eagerly embraced, they had wilfully neglected; and the conclusion which he drew from such conduct was, that money had been largely and lavishly expended to get up this prosecution. At that conclusion he had arrived, not upon the testimony of Italian witnesses, (of whom, as of the ancient Greek, it might be said,

" Græculus esuriens in cœlum jusseris, ibit,")

not upon mere surmises, but upon facts which went home to the minds and bosoms of men. The funds of corruption, he must again repeat it, had been afforded, or why had Mr. Powell been withheld from joining in the application made by his learned friend, the Attorney-General? Mr. Williams then proceeded to observe, that he must, at the risk of being thought tedious, make another general remark before he entered into the details of the evidence which had been submitted to their lordships. He did not intend to travel over the ground which his learned friend, the Queen's Attorney-General, had occupied so ably before him, by dwelling on the glaring and flagrant improbability attendant on the circumstances which had been imputed to the Queen. They had heard that familiarities which had been justly called most disgusting, had taken place between her Majesty and Bergami; but they had likewise heard that her Majesty had been, if the witnesses were to be credited, most careful and cautious that those familiarities should not occur in solitude or obscurity, but in the light of day and presence of multitudes. That was in itself most improbable, but was rendered still more so by a circumstance which had transpired in the examination of no unwilling witness against her Majesty —he meant Demont—and of which his learned friend had failed to take any notice. If their lordships would refer to p. 364 of the minutes, *(Ch. p.* 415.) they would find this additional fact there stated, that the Queen, during all the time that she was accused of conducting herself with this most extraordinary, most open, and most convenient profligacy, (for most convenient it certainly would have been to those who meditated this bill,) thought and believed *herself* to be surrounded by spies *and enemies. What! was it* to be believed that a Prin-

cess, who had not forgotten the persecution which she had endured in the year 1806—who was not ignorant of the attention with which her actions were contemplated in this country—who did not suppose herself to be in any favour with those who were in power in it—was it to be believed that she would, in the presence of a crew of 22 persons, not only render herself open to the accusations, but even surrender herself at discretion to the malice, of her enemies? There was another instance from the evidence, which he wished to place before their lordships, now that he was discussing the improbability of the charges. Their lordships would bear in mind what was stated to have occurred at Naples, which had been made the scene of the early as well as the more mature charges: they would bear in mind that Majochi stated himself to have slept in an apartment between the room of the Princess and the room of Bergami; and that he had been stationed there by Bergami himself, in consequence of Bergami's illness; they would likewise bear in mind that there was a light and a fire in that room, that there was no regular bed in it, and that the repose which Majochi was to take—if, indeed, he who was stationed there to watch over a sick man was to take any—was to be upon a sofa. Now that they were on the subject of probabilities, he would ask their lordships what they would say to this statement? He was well aware that Majochi had previously stated that one access to Bergami's room was through that room in which he himself was stationed; but, in his earlier evidence, his statement was such as would incline any person to believe that it was the only access. At the bottom of page 5, *(Ch. p.* 36.) he was asked, "Then it is to be understood there was between the bed-room of the Princess and the bed-room of Bergami nothing but that corridor and that small cabinet?" And he fearlessly answered, "There was nothing else: one was obliged to pass through the corridor, from the corridor to the cabinet, and from the cabinet to the room of Bergami—there was nothing else." He was then asked, "Did any person sleep in that cabinet in general?" His reply was, "There was no person who slept in that cabinet—it was free—there was nobody sleeping in it." The next question was, "Did the other people of the suite sleep in that part of the house, or at a distance?" His answer was, "They were separated." *But how well that* answer tallied with another part of his

evidence their lordships would see directly; at present it was his object to show their lordships that, so far from the passage through that cabinet being the only means of access to Bergami's chamber, there was another access by another part of the house communicating with the Princess's room, in going through which she would not have had to encounter any watchman, or any person, in attendance on the sick. At the bottom of page 38 and the top of page 39 *(Ch. p. 53-4.)* their lordships would find the following testimony :—

" Will you swear that there was no other passage than that through the corridor ?—I cannot swear; I have seen no other than this, and I cannot say that there was any other but this.

" Will you swear that there was no other way by which any person going into Bergami's room could go, except by passing through the cabinet ?—I cannot swear there is another—I have seen but that. There might have been, but I have not seen any, and I cannot assert but that alone.

" Will you swear that if a person wished to go from the Princess's room to Bergami's room, he or she could not go any other way than through the cabinet in which you slept ?—There was another passage to go into the room of Bergami ?

" Without passing through the cabinet in which you slept ?—Yes."

From this it was evident that there was another way to Bergami's room than through the cabinet in which Majochi slept : and, therefore, unless her Majesty wished to give a distinct notice to a person to watch her conduct—who, from the very occasion, was likely to watch it—he defied the ingenuity of man to find any reason, consistent with common sense or with human nature, which could have induced her to adopt a passage which could lead to nothing but her own exposure, and not go by another, through which she might have equally well indulged her guilty passion which was imputed to her, and, what was still more important, might have indulged it unobserved. Their lordships all knew the advantage that a party possessed who had " *confidentem reum :*" but if the witnesses for the present case were to be credited, the advocates for the bill had a still greater advantage—they had a defendant absolutely seeking her own conviction. If they could reconcile such an idea with what they knew of human nature, then Majochi's evidence might well stand —then, in spite of all its contradictions, it might be credited. But if they applied to it those tests which would be applied by the judge in any common cases—for the jury were the judges—if they submitted it to the ordinary *criterion to which* evidence was submitted, *then they would reject it* as improbable, and would con-

fess that it was impossible to believe it. Indeed, it was his opinion that, making the consideration of the probability of the story a subsidiary and auxiliary consideration to the inquiry into its truth or falsehood, there was sufficient in that story of the cabinet to convince every individual of Majochi's perjury. Leaving that matter, however, to the recollection of their lordships, he should next advert to Majochi's assertion, that the rest of the family slept at a distance, which, by-the-by, was in this case no indifferent matter. For, what had been all the object of the proof?—What had been all the labour of his learned friend the Solicitor-General's summing up, except to prove that, from Naples to Messina, from Messina to the Villa d'Este, and from the Villa d'Este to almost every quarter of Italy, every opportunity had been industriously courted for the purpose of committing the crime imputed to her Majesty? He therefore wished to show their lordships how Majochi had been borne out in this assertion in his cross-examination. The original examination would be found at page 5 of the printed minutes—the cross-examination at page 76. (*Ch. p.* 36—80.)—"You have said, that, in the house at Naples, the rest of the suite of her Royal Highness, except Bergami, slept in another part of the house from her Royal Highness." The answer was, "I do not remember whether the other family slept separate or distant." Indeed! How then was it that at page 5 he had sworn, with the most unblushing effrontery, in answer to the same question, that they slept separate? It would be a mere waste of time to make any comment upon such a palpable contradiction: it was impossible to consider it as any thing else but a wicked, wilful, and malignant perversion of the truth. He would now call the attention of their lordships to the mode of examination which had been pursued during this inquiry. If it had been accidental, he could not help but lament it; but it was a very singular coincidence that every thing which could injure the Queen had transpired, whilst every thing that could benefit her had been withheld. If this was the effect of accident, it was a peculiarly unfortunate throw of the dice for his illustrious client. He would refer them to page 301 of the printed minutes, (*Ch. p.* 341-2.) where the Queen's going to bed was the matter of inquiry; and, as it was imputed to her, at Charnitz,

"*Quæ regio in terris nostri non plena laboris,*"

that an adulterous intercourse, or, in other words, adultery had been there committed, it was requisite to observe the manner in which that circumstance was stated. The following was an extract from the minutes:—

"Who went to bed in that room besides her Royal Highness? did any body?—Myself.

"At what time did you go to bed?—Nearly 10 o'clock.

"At what time did her Royal Highness go to bed?—At the same hour.

"In the same room?—In the same room."

There the evidence rested: it placed her Majesty in bed, in the ordinary phrase, and without further interpretation; but, in reality the Queen had, at that time, no more gone to bed than he (Mr. Williams) was at the present moment. He should now just beg to refer their lordships to page 324 of the printed evidence, *(Ch. p. 357-8.)* where the witness answered a question from somebody respecting the statement of the Princess being undressed. The following were the questions and answers in Demont's evidence:—

"Had the Princess undressed?—I do not recollect; she was in bed, but I do not recollect whether she was undressed.

"Do you remember the dress that the Princess was in the habit of wearing at the time?—Yes.

"Was it not a blue habit trimmed with fur round close up to the neck, with a great deal of fur about it?—Yes, there was a great deal of fur here (about the bosom): it was a blue dress."

This sort of dress, the evidence showed, was rendered necessary by the frosty state of the weather at the period spoken of. The witness then went on to state, that she did not recollect having seen the Princess throw off the fur dress in the course of the day. A great deal would in the after-part of the case depend upon this circumstance, and would show to the world that this was a triumphant case for her Majesty the Queen. Was it, he asked, dealing fairly towards the Queen to put some questions to a witness which left a matter to be caught by inference in a most injurious way, of which there was no proof, or semblance of proof, by direct fact? He should be fatiguing their lordships were he to adduce the almost numberless instances, throughout the evidence, in which much was disingenuously left for inference, which could not be substantiated by even a shadow of proof. He entreated their indulgence while he adverted to other parts of the printed evidence, to show the frequent attempts to create an unfavourable impression by *this sort of inference.* After describing the state

of the tent, the witness (Demont) went on thus:—She was asked:—

"Did you go to the tent for the purpose of assisting in undressing her Royal Highness?—Yes.

"Was she undressed as usual?—Yes."

She then describes that she left the Princess undressed: but he entreated their lordships to refer to what she says at the bottom of page 320, and the beginning of page 321. *(Ch. p. 356.)* It is as follows, and came out on her cross-examination:—

"You have described stopping at Aum?—Yes.

"Do you, or do you not, mean to say that you undressed the Princess at Aum?—I recollect I was under the tent of the Princess, but I do not recollect whether I undressed her or not.

"Do you mean to say that the Princess was undressed under the tent at Aum?—She had pulled off her upper habiliments.

"Do you mean by that the dress in which she had been riding, travelling?—Yes, a gown or robe, which was open.

"Do you mean more than the outer garment, of whatever description?—I do not recollect if it was any thing more."

Thus proceeded the scheming chambermaid with one story at one time, and a different one at another, though she had been long prepared for her statement, for she had been examined at Milan, examined also in England, before she was brought to their lordships' bar; sworn also in these private examinations—a thing never heard of before in a civil or criminal court of this country; or if heard of, only heard to be reprobated. He was therefore justified in saying, that instead of its being left open to inference that the Princess was undressed in the tent, he had it from the mouth of Demont herself that she only took off her riding-dress, and threw on a night-robe over the ordinary dress she wore beneath the travelling-cloak. He repeated, was it quite fair then, either to the Queen or their lordships, to have made such groundless insinuations? If time had had in this case its usual operation, and that the parties had either forgotten all recollection of the particular events, or that the witnesses who could prove it had fallen off in the incidents of human life, then the Queen might have fallen a sacrifice to a foul conspiracy, for she would have been without the means of a successful defence. He implored their lordships then—he demanded of them, if they would excuse the phrase in behalf of his Royal Mistress—to look closely at the texture of the evidence produced at their bar. Why did Demont, he would ask, conceal *this*, when the questions were first put to her? Was it to

avoid being caught and detected in that odious monosyllable, which he would here, for the sake of delicacy, merely call, in a borrowed phrase of her own, a *double entendre*? It was very singular, too, that the questions should have been, on the part of the prosecution, so put as to create all the inferences, which, by a strange coincidence, should have an injurious tendency against the Queen. He should not attribute motives; he disliked harshness; but he thought the coincidence to which he alluded was extremely singular throughout this case. In page 253 of the evidence *(Ch. p. 310.)* he found the matter again alluded to in a similar manner, where Demont described the circumstance of the Queen's changing her dress, to represent the Genius of History at the grand masquerade at Murat's court. The following were the questions and answers to which he now referred:—

"What dress did she assume the second time?—The Genius of History.

"Did she change her dress entirely for that purpose? did you assist her in changing her dress?—I did not."

And though she, by this answer, admits that she did not; and afterwards says, she did not enter the room at the time; yet she had still the pertinacity to speak of an entire change of dress, though the Queen might merely, as on the other occasion, have changed her outside robe, and put on another, more in unison with the second character she meant to assume. This was the part of the subject which was coloured up so highly by the learned counsel for the bill—this was the part of the case on which so much stress was laid, and wrought up not only with all the ingenuity of an advocate, but something of the imagination of a poet. He would take one or two instances more of the fertility of invention used on the part of the prosecution. Let them look at what was said by Majochi—a name not easily to be forgotten while the name of England or its language should endure. Which of their lordships ever learned, from the questions put to Majochi in his examination-in-chief, that the shores of England had ever been honoured by the witness before he was brought over to be presented at their lordships' bar? Which of them ever thought Majochi had been at Glocester, had been in London, had been about, in stage-coaches, here and there and elsewhere? This information, which must *have been* known to the prosecutors, *was entirely kept from* their lordships and the Queen

until it reached her Majesty's counsel after the regular examination of Majochi had been gone through, owing to the most accidental circumstances. Were it not for this accidental information Majochi would have passed away unheeded, as one of the new importation, for whose use the adjoining place had been so appropriately fitted up. Had it been earlier known that Majochi was in England, inquiries could have been made, which would have thrown a light upon his character and testimony. Majochi had by this concealment all the advantage of appearing at the bar as dull as a post, while the questions were putting through the medium of an interpreter, and all the opportunities while that was doing of pondering upon and collecting his answers. Of this comfortable delay, no doubt, he had amply availed himself. Care was also taken, in the case of the captain, to conceal the fact that he had still some unsettled claim upon Bergami, founded on expectations held out to him for the conveyance of the Royal passenger. This had been well omitted at first by the captain, who, when he should return to his own country, would no doubt find himself loaded with honours, and the admiration of his fellow-countrymen, for the remuneration he should have acquired by his trip, and which greatly exceeded the earnings of a long portion of life, if devoted to his ordinary pursuits. The information respecting the unsettled claim of Bergami fell out, or rather tumbled out by accident, in the progress of his evidence. The odds were surely extremely high that such omissions were not so repeatedly accidental. The learned counsel then proceeded to comment upon the summing up of the Solicitor-General, and particularly upon that part of it in which he stated that the courier (Bergami) was present while her Majesty changed "the entire of her dress"—a statement utterly unwarranted by the evidence upon which his learned friend was then commenting. Besides assuming the "entire change of dress," he also assumed that it took place in a bed-room, of which there was no attempt at proof in evidence. In fact, in one sentence of that summing up, there would be found gratuitous assertion, unfounded assumption, and mis-statement of facts. It was perfectly clear that these mis-statements and false inferences were introduced for the purpose of prejudicing their lordships' minds, and attempting to create an undue *and unwarrantable* impression against the Queen. He

was perfectly willing to believe that his learned friends acted upon the instructions they received, and that the concealment of the facts lay with the witnesses. On the subject of the dress, their lordships would recollect how closely he had questioned the witness: he entreated their lordships to bear in mind her answers, and the subsequent light she threw on her first statements. He asked this of their lordships in the well-grounded expectation, that as they were not indulgent at first, they would be vigilant at last. He had elicited the explanation respecting the dress, on which so much had been said, because he did not believe that at the Neapolitan court, attended as it was by the nobility of the country, any such indecent dress could have been displayed. The evidence left his learned friend's description of that dress utterly unsupported, as it did his other statement of the Queen's having been hissed out of the theatre of San Carlos. Why, he repeated, were such statements made to reflect upon the character of her Majesty, when not a single syllable of evidence could be adduced to support them? One assertion by the Attorney-General was, that the Queen had been hissed by the audience out of the theatre St. Carlos, but had this injurious imputation received any support from the evidence? Was it not clear, on the contrary, that Demont had deceived the learned counsel,—had imposed upon them by a story which she had not afterwards the effrontery to maintain at the bar! The presumption of British justice had hitherto been, that a person should be considered innocent until proved to be guilty; and if ever a case had arisen where it ought to prevail, by every sense of duty, by every feeling of delicacy, by every impulse of humanity, it ought to prevail in this. It could not be impressed too deeply, nor meditated upon too intently, by their lordships. One of the strangest incidents in the whole proceeding had been the rare and curious composition of the memory of Majochi; it was a most singular, nay, an unnatural, an impossible memory—it was all on one side of the question—it was a perfect blank to every thing in favour of the Queen, and crowded with inventions and falsehoods to destroy her innocence. He begged the House to bear in mind the instances adduced by his learned friend; for it was as manifest as that the sun had not yet set, that a witness might commit perjury in a negative shape, in the same *way that an injury might* be done by omission, as

her Majesty had more than once experienced. In page 6 of the evidence (*Ch. p.* 37.) Majochi, with a degree of condescension to which he was not often prone, when he spoke of the sickness of Bergami, when the Queen visited his bed-room, mentioned the name of Dr. Holland as having been present; but when the Queen's Attorney-General was endeavouring, in his cross-examination, to explain that visit in the most innocent way, by showing that Bergami was too ill to allow the possibility of guilt, then this adroit and accomplished witness, Signor *Non mi ricordo*, with a memory so accommodated to circumstances, could not recollect that he had ever seen any medicinal man at all with Bergami. He now came to some circumstances connected with the evidence of Mademoiselle Demont, who was also, in some respects, a signal instance of impartiality of memory. Before, however, he proceeded, he begged to put it to their lordships whether they believed there was a word of truth in the ingenious, elaborate, composite explanation attempted by this lady of what she had once deliberately written. When cross-examined on the first day, when attention was called to her letters, she had never dreamed of mentioning any thing like a *double entendre;* the day passed away, and no explanation passed her lips. On the following morning, however, she thought she could mend her story: she had slept upon the matter, and above all, within the circuit of less than an hundred miles from the House of Lords, for he would not assert that it was within the walls, she had had a conference with some person that was of most material importance in doing away the force of the expressions in her correspondence. Whether that conference had lasted for two hours or for five was of no consequence; the result of it was, a regular explanation, as systematic as any of the orations of Cicero; it was formed on a classical model, like the speeches of the King's Attorney-General, who was perhaps the only man of the present day who could be at all compared with the orators of old. Demont's explanation had a beginning, a middle, and an end, and the whole was the effect of that interview and rehearsal which she had afterwards acknowledged, but at first denied, insisting that after the examination of the preceding day she had gone home directly, which, neither in French, Italian, nor English, in Greek, Latin, nor Hebrew, could *mean any thing* but that she returned without delay.

After all this preparation and study—after consulting the prosecutors, and her pillow—was her explanation in any respect satisfactory? He would venture upon this general assertion, that it had not the shadow of a shade of sense in it—that there was not the slightest pretence for it in the letters, which were in themselves perfectly intelligible, and, with her gloss, perfect obscurity. It would be to trifle with the time of the House almost as grossly as she had trifled with her oath, to use any arguments to show its absurdity. The author of some future comedy would here possess a fine original, upon which to draw the character of an intriguing, shuffling, lying, artful, chambermaid. He put it to their lordships, whether it was insulting common sense to pretend that by the expression of "the capital of Europe," in one of her letters, she meant that obscure spot which had given her birth, and to which it were to be devoutly wished that it had pleased God to confine her. At least she was desirous that it should be left doubtful whether by "the capital of Europe" she meant London or Colombier: *neque rationem neque modum habet ullum*; the thing was wholly incredible, and it would only be *rationem insanire*, as the comedian expressed it, to waste words upon its refutation. He adduced these as specimens only: he left the great mass to their lordships, who no doubt would examine the whole evidence with more patience and industry than he had done, because they had more high and important duties to discharge than those by whose weight he, as an advocate only, was oppressed. They would find, that on page 377 of the evidence, (*Ch. p.* 397.) Demont was trying her hand in one of her letters to her sister at a panegyric, and she chose as her subject her gracious and illustrious mistress the Queen. "How often (she said) in a numerous circle, whilst, with all the enthusiasm which animated me, I enumerated her great qualities, her talents, her mildness, her patience, her charity, in short, all the perfections which she possesses in so eminent a degree; how often, I say, have I not seen my hearers affected, and heard them exclaim, how unjust is the world to cause so much uneasiness to one who deserves it so little, and who is so worthy of being happy." He asked their lordships again, whether they believed all this to be but the fraudulent cover for malignant hate? Did it mean what it expressed, or any thing else? Was it at all *improbable that the* writer should be sincere?

Was the object of her eulogy undeserving of it? Was she the only person who entertained this opinion? Had no one else said as much, or nearly as much, of the same illustrious female? He thought that he had heard something very like it before, and that from no mean authority—from a man of an elegant classical taste—who was celebrated for his spoken and written compositions—who was gifted with a knowledge of ancient and modern languages. He had pronounced on an occasion of no little solemnity, that the Queen was "the grace, the life, and the ornament of the society in which she moved." Was this testimony to be taken in favour of her Majesty, or was it also, like the panegyric of Demont, to be looked upon as a cover for malignity, and a *double entendre*, which explanation only served to render more profoundly obscure? If then the Queen were worthy of this laboured panegyric from so accomplished a source, surely the House would not consider her undeserving of the inferior encomium of a Swiss chambermaid. But he (Mr. Williams) would do Demont justice against herself; he would assert that she belied her better knowledge, and her better nature, when she attempted to give any other sense to her letters than the obvious and clear import of the language she employed. For aught he knew, if it were necessary, he might bring to their lordships' bar the distinguished individual to whom he had alluded, who had publicly declared his opinion of the excellence of her Majesty, to repeat in testimony the tribute of admiration he had so justly bestowed. He would now claim the attention of their lordships to a declaration made by the learned counsel on the other side, and to which he had listened with much satisfaction, and with perfect concurrence: it was this—"that every part of the evidence that might be deemed material, without regard to its influence or impression, should be brought forward; for it was the duty of the counsel in support of the bill fairly and candidly to present to the House the whole case, without considering themselves as it were the advocates of a party in a suit." Nothing could be more proper than such a declaration: if they had acted up to it, the Queen would have had nothing to ask: it was the whole of her case. "We undertake (said they) to bring before your lordships all the evidence the case affords, not of a condemnatory nature only, but the whole evi*dence, whatever be its* import or effect, whether it be for

or against the Queen of England." Such was the engagement into which they had entered, and with infinite pleasure he had treasured up these proverbial words of wisdom and liberality. It was, in fact, not a dispute between adverse parties; it was a solemn proceeding, not to gain a victory or some petty triumph, but to arrive at truth, the whole truth, by means of the evidence and the whole evidence. It was therefore with infinite regret and signal dismay and astonishment that he had afterwards heard the Solicitor-General, in his summing up, make no less than four distinct challenges to the Queen's counsel, in the same way as if it had been a mere *Nisi Prius* case for the recovery of 5*l.* for goods sold and delivered. He dared them to produce Louis Bergami, Bartolomeo Bergami, Brunette, and another witness. He mentioned this to show the gross contradiction between the principles and the practice of the other side—between their high-sounding professions and their conduct. Where were now those words of wisdom and liberality in which the people of England were assured that the whole case should be fully, fairly, freely, and fearlessly investigated. They were mere words, answering a temporary purpose, but never intended to be carried into effect. Had the Attorney-General taken one step to perform what he had promised? Where was Dr. Holland? Where was Lieutenant Hownam? Where were the noble ladies attendant upon the Queen? Had any of those competent and credible witnesses been adduced? No: but *dum tacent loquunter*—their absence was as useful to her Majesty as if they had been brought to the bar: the other side had not dared to call them, which showed what must have been the import of their testimony to the vindication of the Queen, and the condemnation of her accusers. This sort of challenge had been imported into this great inquiry from civil causes, where it was often pressed too far: but in all criminal proceedings, even in our lower courts, the party bringing the charge was bound to establish it by sufficient evidence; and if he failed, the accused was not bound to supply the deficiency or to establish his innocence in the absence of all proof of guilt. He did not say in the history of English justice, but in the history of English injustice, (for such it would be) who had ever heard of an unfortunate accused being met by being told, "If you do not call this or that witness, whom the prosecutor *had it in his power* to bring forward, we shall con-

sider that you acknowledge the justice of the charge?" The case ought never to be left doubtful, or if it were, the prisoner had a right to the benefit of that doubt. If he (Mr. Williams) in the course of his professional duty indicted a man for murder, and purposely kept back from the jury a witness, because he might possibly say something to lead to the acquittal of the wretched being, he should consider that he, as a counsel, was a party to that man's death when he was hanged for the crime. But this was not even a case of that description: it was far more important than a question even of life or death, and legal manœuvres and the dexterity of practised advocates were wholly out of their place; they were unbecoming both the subject and the situation. He was earnest upon this point, because he felt earnestly; he felt here not merely for the interest of his illustrious client, whose character, honour, and dignity, were at stake, but for the country itself, whose tranquillity and happiness were not less in jeopardy. He called upon their lordships therefore to weigh the matter well, and to deliberate anxiously and carefully before they allowed this challenge to operate against the Queen. "I defy my learned friends (said the Solicitor-General) to call Louis Bergami" What did he mean by this, but that if the call were not complied with, he should obtain the verdict, he should gain his point; and what was that point which was thus treated as a question regarding a farthing damages? It was no less than the passing of this dreadful measure, the accomplishment of one of the most terrible mischiefs by which the country could be afflicted. What, however, was Louis Bergami to prove when he was produced? how was he implicated? In no other way than that Majochi, speaking of a breakfast at which the Queen and Bergami were seated at the same time, swore that either Louis Bergami or Camera waited upon them on the occasion. So that even the presence of Louis Bergami was not vouched, and the Solicitor-General had gone beyond the manœuvre, the artifice, the legerdemain, the dexterity, the trickery of an advocate in the pettiest cause that ever degraded the meanest court of justice in the kingdom. Next he said in the same spirit, "I defy you to call Bartolomeo Bergami:" but here again it was *telum imbelle sine ictu:* there was all the will to wound, but the blow was impotent and harmless; for suppose this person were *produced at the bar*, did not the experience in the world

of every man show, that supposing the crime of Berganii more or less, his answers at the bar upon this subject must necessarily be of one description only. Such an attempt on the part of the Solicitor-General in a case of this kind was a shameless prostitution (without offence be it spoken) of a low contemptible trick of courts, unworthy of the wisdom and of the great political and legislative character of the House of Lords. This was not a trial at *Nisi Prius*, it was a bill of pains and penalties, a measure which Lord-Chancellor Cooper had declared, in his celebrated protest, ought never to be resorted to, but in cases of the last necessity? and for this reason he (Mr. Williams) asserted that the analogies of common law proceedings had been shamelessly introduced. The charge against the Queen was of no distinct crime known to the law, and the law therefore had affixed to it no specified punishment: to talk of analogies was therefore ridiculous, and the House in its political and legislative capacities, both of which were here to be exercised. ought not to be guided, much less governed, by any low technicalities. He hoped, then, he should hear no more of analogies, which were only talked of whenever they tended to abridge the rights and injure the cause of her Majesty. Protesting to the utmost of his power, as zealously as his honourable friend, that the non-production of these witnesses on the other side was a clamorous evidence in favour of the Queen, nevertheless there were high interests at stake which rendered it necessary that they should be called. Witnesses their lordships would have—the challenge would be met; but with respect to what would be proved, he begged, in what he should now state, to be distinctly understood. On the other side, three years' application had been devoted to the case; equitable, legal, and military commissions had been sent out; examinations upon oath, and without oath, had been taken. Witnesses had been interrogated in Italy, on the road, and in this country; so that every letter and figure of what they could depose had been distinctly ascertained. The Queen had possessed no such advantage.

The Earl of Lauderdale here interposed, and observing that it was now four o'clock, and that the learned counsel was entering upon a new branch of his subject, he recommended that the House should adjourn until *to-morrow, which they accordingly* did at four o'clock.

THIRD DAY.—October 5.

After a short debate relative to the Neapolitan Revolution,

The Marquis of Lansdown said, that having been the person who had first called the attention of their lordships to a letter of M. Marrietti, which seemed to indicate an attempt on the part of Colonel Brown to interfere with the witnesses in the cause before the House, he should have been sincerely happy to be able to express his satisfaction at the explanation which had been given in the letters which the noble earl opposite (the Earl of Liverpool) had produced. Unfortunately that was not in his power, as a letter had come into his possession at the same time that the noble earl had produced his explanation, which letter tended to throw a light on the proceedings very different from that which the noble earl's explanation had cast on them That letter had been sent to him by a person with whom he had had no previous intimacy, and who had given him no special authority to make public use of it; and he (the Marquis) in discretion had thought fit not to do so. But since that time not only the letters to which he had alluded, but other letters, throwing a still stronger light upon the case, had made their appearance in the public papers; and, great as his satisfaction would be in declaring his conviction that there had been no interference, he could not now have that satisfaction. Any of their lordships would see that the case could not rest there. Far would it be from him, even on the assertion of M. Marrietti, though he believed him to be as respectable as any man, to condemn an individual without a hearing. But if their lordships would read those letters, they could not help feeling a doubt that M. Marrietti was induced to make the communication to his son, not by a direct intimation from Colonel Brown, but by one conveyed through the confidential clerk. The first letter of the elder Marrietti bore date the 16th September, and contained the following passage:—" It is true that Brown has expressly and repeatedly insisted with M. Albertonio that he should make known to you the dissatisfaction in that quarter towards you, and the danger of the alien bill, which you were going to encounter." That letter had been written after a knowledge of what had taken place in England. There was a subsequent letter from *the same gentleman,* dated Milan, Sept. 20, in which it

is said, "He (Colonel Brown), seeing himself much disquieted on this account, made such an application to Sig. D. Ciceri, and to Sig. Albertonio, that the former begged me to convey to the said Colonel Brown a letter of mine, which in a certain way *(in certo qual modo)* might justify him with his government from the two rigorous interpretation given to my former letter. And after having written and re-written, through the medium of the said Signor Ciceri, draughts of such a letter to be shown, the copy which I enclose to your address was fixed upon. You will likewise find the copy of a letter which the said Colonel Brown desired from the said Signor Albertonio, who gave me the account contained in the letters formerly addressed to you. To the honour of truth, I have regarded what Colonel Brown said, through the medium of Signor Albertonio, as an act of friendship, to prevent him from being brought into any danger; nor could I ever have imagined that such a thing could have been of as much importance as it has proved. However that be, to facilitate the allaying of such a controversy, and to preserve amity with all, I have thought proper to second it, as you will perceive by the copy. They wished me to declare that my first letter was the result of my own simple suspicion, and had no ground to rest upon; but this I would not allow, because the having named Colonel Brown in the way I did would have been charged on me as a calumnious imputation; and, therefore, you will see in my letter sent yesterday to him (Colonel Brown) that I mention my not having direct conversation with him, and derive my information from what he caused to be said to me by Signor Albertonio. Regulate yourself, therefore, in every thing with the greatest prudence, in order not to incur other annoyances, and other dissatisfactions, which can only produce evil to you." The expression of the Italian, as to the representation he had made, was stronger; it was *lasciar anello*, to leave a loop-hole, "to leave a ring," on which to hang a construction of the case. Now as to the considering all this interference of Colonel Brown a mere act of friendship—this intimation to a person of whom he had no knowledge, and made too through a clerk—considered, too, as the emanation from a person who was the agent of the opposing party in the Queen's cause, and representing, as the noble earl said, though *in a qualified degree*, the government of England —*how could it but be* regarded by an individual like M.

Marrietti, living under a government of which it was no satire to say that it was absolute and despotic (for such it professed to be)—how could it be understood by him but as a desire to influence his conduct? And it had influenced his conduct in his communications to his son. He did not wish, however, to condemn Colonel Brown, but he thought the whole of the letters should be made evidence, to bring the whole of the case under the view of the House. M. Marrietti could give in and authenticate the original letters.

The Earl of Liverpool agreed that it would be perfectly impossible that the thing could rest where it was. His only desire was, that Colonel Brown should not be prejudiced till a further explanation was required and given. Colonel Brown, it was plain, had had no communication directly with M. Marrietti; whatever had passed must have gone through a third person—M. Albertonio. Colonel Brown asserted that he had never even referred to the alien act, and this M. Albertonio did not deny. He was willing that the papers should be made official; perhaps to make them evidence would be most advisable.

The Marquis of Lansdown observed, there was no explicit denial that the alien act had been referred to either from Colonel Brown or M. Albertonio. The latter said he was ignorant of its provisions; and Colonel Brown said he had not threatened that it should be applied to M. Marrietti.

The Earl of Liverpool observed, the first letter (which was the origin of all the explanations) should be put in as well as the others.

After a few words from the *Marquis of Lansdown*, and the *Earls of Liverpool* and *Lauderdale*, M. Marrietti was conducted to the bar. Having stated that his name was Joseph Marrietti, he was sworn, and the letters alluded to by the Marquis of Lansdown were handed to him.

The Marquis of Lansdown.—Look at those letters, and state whether they are original letters which you received from your father. —The first is an original letter, written to me by my father on the 21st of August. I received it by the post. The 2d letter, dated the 16th September, my father also wrote to me. It was directed to my house here, and I received it by the post The 3d is a copy of a letter from my father, relative to the communication of Colonel Brown, and directed to the Colonel, dated the 19th September. I received it enclosed in the 5th letter. The 4th is a copy of the letter of Signor *Albertonio to Colonel* Brown, dated September 19. The 5th is dated *the 20th September.* I received it from my father by post.

Are all these letters in the handwriting of your father?—They are, except the copy of Albertonio's letter, which is in Albertonio's handwriting.

Have you received any other letters on the subject of the communication made by Colonel Brown?—None at all: these are all the letters.

Have you received none from Albertonio?—I some time ago received a few lines at home from him, stating it to have been mentioned to him that I had been in the house of Demont. I answered that it was not true, as I never had been in the house of Demont in England.

The Earl of Lauderdale.—There is a person named Ciceri mentioned in one of the letters: who is he?—He is a person who used to come to our house, as a very great friend of Colonel Brown. I recollect, when I came in January last, he asked me to take some dispatches from Colonel Brown here.

The Earl of Harrowby wished that the communication from Signor Albertonio, to which the witness had alluded, should be produced.

The Earl of Liverpool.—Have you the letter you referred to in your former answer, from Signor Albertonio?—I believe I have; it is written on a portion of another letter.

The Lord-Chancellor directed the witness, before he attended the House in the morning, to search for the letter; and, if he had it, to bring it with him.

The witness was then ordered to withdraw; and on the motion, "that counsel be now called in," having been put from the woolsack, and agreed to, the counsel for and against the bill of pains and penalties were introduced in the usual form.

Mr. Williams immediately resumed his address. In the course, he observed, of his learned friend's luminous speech, there certainly was not any point on which he had exerted his talents with greater effect, or on which he (Mr. Williams) was more justified in addressing so many observations to their lordships, than on that part of the case which consisted in the counsel on the other side having been deficient in calling all the witnesses that might naturally have been expected, while, on the other hand, the counsel on the part of the Queen were, in consequence of the difficulties that were opposed to the production of evidence for her Majesty, driven almost to the necessity of not calling any witnesses at all. That observation would receive the strongest confirmation when he laid before their lordships the peculiar difficulties under which her Majesty was placed. As he had stated yesterday that observations pointed to and founded *on particular facts led* to more decisive conclu-

sions, and had greater weight than mere narrative matter, he hoped their lordships would permit him to commence by stating to their lordships one or two facts illustrative of the various difficulties by which her Majesty was surrounded. Their lordships would doubtless bear in mind what was attempted to be proved by a woman of the name of Kress. Her evidence, which had already been alluded to, was not material for his purpose, on this occasion, farther than to call to their lordships' recollection that the general nature of the fact, so proved by this woman, was her seeing the Queen and Bergami in a bed-room together, connected with some details about the situation of Bergami's arms. Now nothing was more necessary, however late her Majesty was apprized of the specific charge against her, than that every inquiry should be made for the purpose of repelling it, and that the utmost diligence should be used to obtain information with respect to her residence at Carlsruhe. And, amongst others, it appeared that there was a chamberlain of the Grand Duke of Baden, who had been in attendance on her Majesty during her continuance at Carlsruhe. Now, to show that in all probability this individual would be an important witness—and that, but for some extraordinary circumstances, which he could not account for, he would have been present on this occasion—would, he conceived, be a superfluous waste of time on his part. This individual did not attend on her Majesty once or twice, but attended her constantly during the whole of her residence at this place. Accordingly, feeling the importance of his evidence, and being desirous, as far as possible, to be armed and prepared to meet the case set up against her, the Queen wrote a letter with her own hand, which her Majesty sent by a special messenger to the chamberlain. The messenger she employed was more than ordinarily respectable. In order to impress the chamberlain's mind with an idea of the respectful light in which she viewed his character, her Majesty selected the brother of his learned friend, the Attorney-General of the Queen, to be the bearer of the letter. That application did not, however, procure the attendance of the witness. The Queen then wrote a letter to the chamberlain, and another to the Grand Duke, on the subject, but with no better success. Three letters, therefore, were sent, by a special messenger, to this particular person, a most ma

terial witness on the part of the Queen; which, however, failed to produce his attendance. On the last occasion, the messenger sent by the Queen, to obtain the attendance of the chamberlain, was informed by him that he was willing and desirous to come to England—he expressed himself eager and anxious to give his testimony —but he added, withtears in his eyes, that he had orders from the Grand Duke not to do so; and the consequence was, that he did not arrive in this country. There was, however, another instance of interference, but of a different description, at this place. It was a circumstance fresh in their lordships' recollection, that this refusal to suffer a witness to come over in favour of the Queen came from the very same quarter which employed the agency of two ministers, and two ambassadors, to compel the woman Kress to come to England. Thus, as he had said respecting the memory of the first witness, the operations for procuring evidence appeared to run all one way. Again, her Majesty saw a palace at Zastrow which she wished to occupy. No objection was made by the Grand Duke at the time, but, on the contrary, to such a point had the negotiation arrived, that the very same chamberlain of whom he had already spoken, and who, if called, might have proved the fact, had gone the length of purchasing furniture to equip this palace. When the affair was in this state of forwardness, a notification was given to the Queen that the residence of her Majesty would not, perhaps, be agreeable to this court; and, on that account, the palace was refused. A fact of so important a nature ought never to be lost sight of when they heard complaints made that her Majesty did not take up her residence amidst polished society—that she did not associate with people of her own rank—that she was not seen moving in a circle of her natural friends—that she did not frequent those places where she best might be expected. Surely treatment such as this was calculated to drive her out of society. He now came to another point. It was not an immaterial fact in our view, and indeed in every view of the case, that some information should be given, some evidence produced, as to the conduct and character of Bergami while the servant of Gen. Pino—that being on their lordships' minutes, the service in which he was prior to his becoming one of the suite of her *Majesty. An application* was, therefore, early

made for the attendance of Gen. Pino. Some communication was made on the subject to the Austrian government, in whose service he was; and, in consequence of that communication, an intimation was given to him, that if he came to England, he must not appear in uniform. This seemed to him an odd sort of intimation; and lest there might be some mental reservation behind, he inquired whether, if he came to England, he would lose his commission? To this no answer was given: the General had not come to England, and, he might add, that he would not come. Now, had they not a right to complain that all the evidence on both sides (for both the parties as the Attorney-General had wisely stated when he opened the case, would be produced) was not forthcoming? Was it without a cause that her Majesty's counsel represented to their lordships, that a rigorous demand was made for every witness that could be produced on the other side, while the greatest difficulties were thrown in the way of her Majesty when she endeavoured to obtain evidence? Did not those plain facts come powerfully in aid of those general observations that had been made on the manner in which the case before their lordships was got up? Did they not furnish a powerful argument in support of the accused party? He trusted their lordships would be of that opinion. But the matter did not rest merely on these particular points. There were other persons who refused to come. There were some physicians, and, he understood, some lawyers (he dared say there were enough of the latter to mind the things that were, extremely well), who would not come to this country--persons whose appearance they wanted—but with respect to whom it was impossible for his Majesty's counsel to tell, till they came here, whether they would make use of their evidence or not: they, however, were prevented from attending by the interference of either our high or low alliances. He thought it necessary, though out of his intended course, to commence with this statement, in order to make it auxiliary to the triumphant address of his learned friend, an instrumental to the support of that argument (if, indeed, any argument remained, after that most eloquent and most able speech to which he had alluded), which, at the expense of their lordships' patience, he felt it necessary *to lay before* them. Before he came to make a few

observations, in the shape of an appendix to the case, in its more extensive features, he hoped their lordships would indulge him while he made one or two general remarks on the case for the defendant. If, as was the adverse supposition, the present was a case of open, undisguised, notorious guilt—and, because open, undisguised, and notorious, derogatory to the dignity of the crown, the government, and the kingdom itself—if this were the fact, he would ask how it was possible that it should remain so long without being proved. It was admitted that things were susceptible of short and easy proof, on account of their notoriety. If a man assassinated another, at mid-day, in Charing-cross, the probabilities, he thought, were, that he would speedily be brought to justice. It was the commission of the act at night, and in secret, that rendered it the subject of long and laborious inquiry. How did it happen, if, as the preamble of the bill assumed, this was a case of notorious publicity, that the adverse party should be driven to make use of such witnesses as they had produced — witnesses certainly of the most willing description, though some of them declared they had not been paid, and others asserted that they expected nothing? Why had they recourse to individuals, some of whom were only skilled in the topography of bed-rooms, whilst others were in the habit of peeping through crannies, or apocryphal and doubtfully-existing key-holes? Of this description was the witness from Trieste, who, he was disposed to think, from his appearance, and from what he had stated, had been for a season from the visitation of justice, in order that he might be ready to give evidence here, and with his talents to support the prosecution. He hoped, however, that he would meet his reward—and he certainly would, if a legal proceeding for perjury could have that effect. If, as had been assumed, this was an open, an undisguised case of adultery, whence was it, he begged to know, that with the exception of the single instance spoken of by Demont, in that ever-memorable appendix to her testimony—the third edition, with various corrections and emendations —whence was it, that with this single exception, not a syllable had been brought before their lordships of that species of evidence (he alluded to the state of the bed-linen) which, in nine instances out of ten, obtained in cases of *criminal conversation*? In fact, such proof *was not only generally* given, but it was seldom or

never omitted. How was it that the whole of this sort of proof, with the exception to which he had alluded, had been excluded from the case? This was a very important feature in cases of this kind—it was a point that was always much relied on—it was constantly urged for the conviction of the accused party. If evidence of such a nature existed, it would doubtless have been brought forward in order to convict the Queen; but there was an almost total silence on that part of the case. This was the more extraordinary, as the adverse parties were in the possession of a witness who was in the service of the Queen for the first two months of this supposed perverse and profligate connexion, and who must, therefore, have had the best opportunity of giving evidence on this point, if any foundation existed for it. The individual, Ann Seising, to whom he alluded, was present during the very hey-day of this passion, when it was more likely to show itself with violence than at a later period; for it was a maxim, that, when the mind of a female took a direction similar to that imputed to the Queen, it manifested more violently at an early period than afterwards. But not only was no such proof afforded by Ann Seising, but, strange to say, she was not even called. There was no difficulty in procuring her testimony; she was in this country; she was placed in Cotton-garden—that garden of innocence—which, as the Attorney-General had stated, was not only exempt from crime, but was so holy a sanctuary that even the inoculation of crime could not possibly take place there. There she was; she had been placed in the ranks at Cotten-garden; and, if the counsel on the other side had thought fit, they might have examined her; but they did not, they dared not call her. Whence, he would ask again—whence proceeded all this delay? Why was it he begged their lordships to consider, that, in a case which bore an immediate analogy to high treason which, in one point of view, according to the highest authority in the law, was high treason—and which was stated, by all, to be high treason, if it had not been for the accident of the country of one of the parties implicated;—why, in such a case, was there so long a delay in bringing forward those charges? Why was a time suffered to elapse, which, if it had been a case of high treason, would have *formed the ground* of instant acquittal? For, by the *statute of William,* as all their lordships knew, if, in a

case of high treason, three years were allowed to elapse, the provisions of that statute interposed, and a prosecution of that description would be prevented. Why, then, he repeated, if those facts really existed, were they allowed to slumber so long? Was it not a daily remark, that it was a fair matter of imputation against any proof if that proof had been allowed to sleep for any considerable time? Could it be pretended, could it be said, (and he wished to touch this part of the subject as tenderly as possible,) that it was immaterial to this nation, that to the morals of the nation it was a matter of no moment, what the Consort of the first Magistrate of the State was doing abroad? It was true, she had no active power—but she was the representative of the Royal Court—she was the Consort of the then executive first Magistrate of this realm. During the whole of these three last years, which had been untouched by the evidence, could it be pretended that it was immaterial to the honour and dignity of the country to know what had been done, or what was doing, by the Consort of the eminent and illustrious individual who at the time was all but seated on the throne, and who, though he did not then wear the crown, performed all the functions of royalty? Where then was the excuse for delaying the production of proof? Would it not be by-and-by surmised—if it were not already abundantly surmised—that it was not what had been done in Italy by the Queen that caused this prosecution, but that it was her coming to England which gave rise to the charges contained in the preamble of the bill; and that it would be well, if instead of that somewhat tedious and verbose description of those proceedings, which were supposed to be derogatory to the honour of the crown and the interests of the county, the preamble of the bill had run thus: "Whereas it has pleased her Majesty to come to England, be it therefore enacted," &c.? He was not much in the habit of drawing up preambles of this nature; and, therefore, his learned friend, who had more experience in matters of that kind than he had, would excuse him if his language were not sufficiently formal and technical. If there were no good reason, in law, in sense, or in propriety, for withholding this charge for a period of three years, while the matter of accusation existed — when persons had been *sent abroad to* watch the Queen's con-

in favour of the Queen, which they believed, and indeed knew, to exist. If power was exercised to procure evidence against her, and if the same power was exerted to keep witnesses from hastening to her assistance; hard, indeed, was her situation, and manifold were the difficulties with which she had to contend. In addition to this, he was certainly in no condition to state the evidence on behalf of her Majesty with all that precision and detail which might be expected from the amply-stored, and well prepared, well-concocted brief, of his learned friend, the Attorney-General. Surely, from the sundry examinations abroad and at home (and not only had the witnesses been examined before, but two of them, contrary to all precedent, had been sworn); but surely, from all the preceding examinations, his learned friends on the other side had every means of knowing clearly what case they could state, and what witnesses they could bring to prove it. On the part of the Queen there were, on the contrary, no time or means for having the evidence culled and arranged; it must be brought forward necessarily without that full preparation and arrangement which the other side ought to have made. It was true that if the Queen had pleased to ask longer time, undoubtedly longer time would have been allowed. But he could state why her Majesty could not have asked longer time. Her Majesty had patience—her patience had been tried. Abundant opportunities had been given to exercise her patience. Her Majesty had fortitude. In the course of her life she had found it necessary to exercise her fortitude; but the Queen had not patience, she had not fortitude, to let the case slumber in an unjudicial unphilosophical balance, with all on one side, and not a single comment, not a single reply, not a single remark, on the other. Therefore the Queen could not allow the case to stay so. Therefore the Queen's patience and fortitude, great as they were, could not allow all the charges, evidences, and insinuations to go forth on one side, and no antidote with it; and he knew not that there was any one who had fortitude enough to blame the Queen for this. But these observations he made only to show that it was not to be expected that he could give the same regular systematic detail on her Majesty's part which ought to have been given on the other side after a preparation of three years. On the other side they had had the power *of choosing their time*; they had had the means of select-

ing their opportunity. Time, opportunity, and influence, they had been able to command, adequate to their situation. But, notwithstanding this disadvantage, he would now proceed, by allusion to particular branches, which he would mention shortly: he would show the case which they were prepared to make out on the part of her Majesty. In going along he would first remark what the adverse case was, and what they were ready to prove in order to meet that case. First, his learned friend (Mr. Brougham) informed him that he had not discussed largely the evidence connected with the polacca, but had passed it over in consequence of the arrangement that had been made—that he should only state the general case, and animadvert on the evidence which had been adduced. But, of all the parts of the adverse case, this was the very fittest, the very best, the very pleasantest for commentary. His learned friend, too, reminded him, that on a former day he had touched this part of the case by his remarks on the evidence of the master and mate. There was no part of the case on which he was more willing to enter; none that he was more happy to grapple with, and to meet. If any supposed that this part had been industriously omitted, the contrary would presently appear. No part had been more pressed and observed on than the bath. According to Majochi's evidence, that bath had been in the cabinet of the Queen, where the Queen and Bergami were while Majochi stood at the door without. Demont had not confirmed Majochi in this statement: she said the bath had at one time been used in the dining-room, and of other times she said nothing. Not only, therefore, was her evidence not confirmatory, but it was virtually, as the case was considered so important on the other side, a contradiction of Majochi's evidence. But the bath, in point of fact, was a tub, being the only kind of bath that could be had on board a ship. The cabinet was small, so that, so far from taking the bath into it, what with the bed and the furniture, it was impossible for the tub to be placed there at all. If, then, it was a physical impossibility, that must amount to a contradiction. He thought no better contradiction than the laws of nature could be given, and such a contradiction might do pretty well against such a witness as Majochi. The whole of this, then, so industriously misrepresented, *their lordships would throw* to one side, as an infa-

mous, false, malignant traduction of the Queen, if they should find it proved that the tub could not be introduced into the cabinet. In page 95 *(Ch. p. 98)* the witness, he believed Paturzo, swore that, when Bergami had changed his sleeping-chamber, it was quite possible to see the Queen from one bed to the other, and lying in bed. To that a peremptory contradiction would be given; and it would be shown that the situation of the rooms and beds was such as rendered such a view from one bed to the other impossible. There again, then, was a contradiction. Again it had been sworn that Bergami had changed his bed, and an inference was made from that circumstance against the Queen. Let their lordships mark how plain a fact put down this inference. At Tunis a surgeon had been taken on board. No room could be given to him according to the arrangement which had previously existed. Therefore, without communication with the Queen, without her knowledge, without any arrangement with her, that change was made of Bergami's bed-room: so that this circumstance, malignantly as it had been directed against her Majesty, fell down before the fact. Another circumstance strongly urged, and apparently much relied on, was the sleeping in the tent. This tent had been within half a yard of the steersman, who was always on the spot. Why had not the steersman been called? Why, if Majochi told the truth, and heard, while he lay below, the noise to which he needed not refer in fuller terms—and which noise, by the way, never could have been heard in the agitation and motion of a vessel at sea;—but if Majochi told truth, and heard this noise while he lay below—not asleep, for Majochi was not stupid enough to say so—but, if he heard it awake, surely the steersman must have heard it. They would prove that the crew were at that part of the vessel at all hours. They would produce an officer who had charge of the vessel, and who would state to their lordships, that the Queen used to put questions to him, at all hours of the night, respecting the progress of the ship, the weather, and similar subjects; and that he, without fear, apprehension, or warning, used to take up part of the curtain and to give answers to the questions asked. The Queen did not sleep there undressed, as is usual in bed. It was an awning, and she slept with her clothes on. He believed—when he made use of that expression he begged *not be understood* to feel any doubt or hesitation—but it

was not possible for him to be so well trained and tutored as the learned gentlemen on the other side ought to have been, and therefore he could not know so thoroughly what the evidence really was;—but he believed that it would be proved to their lordships that the communication between the tent and below was constantly open. On several nights during the voyage it would be proved that Bergami had not reposed there at all; but that the Queen herself, after some untoward accidents that had happened, and some attempts at surprise in Italy, reposed no where without some person to protect her. He fancied that the evidence, in this respect, would show, that when she slept, undressed and in bed, the person guarding her Majesty was at the door, or in the adjoining room; but that in other cases, when her Majesty reposed in a tent, and with her clothes on, that person was in the tent. Suppose any part of this true—suppose any fragment or fraction of it were proved—what then became of the evidence of Demont and Majochi, respecting the bath and the tent? Why, of twenty-two men on board, had none been called? Above all why had not the steersman been called to state what had actually taken place, in confirmation of Majochi, a discarded servant, and of Demont, a discarded, ungrateful, malignant, female servant? He begged now to call their lordships' attention to the evidence of transactions at Naples: first, respecting the night, the very night, when, from her Majesty's agitation and alarm, it was supposed the commencement of adulterous intercourse was made. Respecting the opera-night—that night so fatal in the transaction—Demont swore that the Queen retired, agitated of course. Demont was there quite safe: she swore to agitation which no other person saw, and to which the person alleged to have been agitated could not bear testimony. There the Queen was agitated—there the adultery commenced. So it had been opened by the Attorney-General—so it had been described by the witness—and so it had been summed up by the Solicitor-General: but that night, fortunately, had been a remarkable night. That was the night when the King of Naples and his Court were witnessing the opera. For the Queen a state-box had been prepared. There she was regularly attended by appropriate attendants, who remembered well the night, and their attendance there. From the length of time they *were obliged to stand,* the amusement of the opera

had not compensated for the fatigue of attending, and they well remembered that they attended till the opera ended, and that that did not happen till one o'clock in the morning of the night known in the evidence as the opera-night. So much for the earliness of her Majesty's return. According to Demont, the Queen had not a bed that night, or, in fact, did not sleep that night, and indeed during the whole time she was at Naples. Where her Majesty slept Demont must be called back to tell them. But he would supply the deficiency of her evidence as to where her Majesty slept that night. The night was not only remarkable for the King and his Court attending the Opera, but for a storm which threw open the casement of the Queen's room; and he would call a witness who had been called by the Queen to shut it, and who would prove that the Queen was then in bed. What, then, became of this notable adultery on that fatal night, when he knew not what conscious stars witnessed the deed—and of the agitation, and he knew not what other indications of approaching ruin? He would not waste time by commentary on this part of her Majesty's case; it was a peremptory contradiction. His learned friend had opened that William Austin, a boy of six years of age, was, just to meet the occasion, on that very night, withdrawn from her Majesty's room, and for that very purpose. What would their lordships say of this charitable and honest construction when they found that a boy of 13, and in the climate of Italy, had been some time before represented to the Queen to be of an age that rendered it proper that he should be separated; and that he had been separated before that night, when necessity did not make that impracticable? So much for the removal of a boy of six years of age—and on the adultery night, and of the injurious interpretation on the conduct of the Queen on that occasion. Another part of the evidence hardly deserved any reply, but they would not leave the case short in any one part, till the witnesses on the other side were totally contradicted. The part he now alluded to was the alleged indecency of her Majesty's dress when she represented the Genius of History. The occasion was the celebration of Murat's victories. A Duchess of Murat's Court, and another lady of high rank and of Murat's Court, performed parts in this representation. *So far from her* Majesty's dress being indecent, as De-

mont had sworn, according to the opening, it was particularly grave and decent, covering her person up to her chin, and covering almost the whole arm. The character which the Queen sustained was of a modest, severe, and simple kind. The Genius of History was

"Sober, steadfast, and demure,"

and naturally such in other attributes, as Milton described another imaginary personage. It was not a fanciful, wild, and fantastical person that was to be represented; it was not the laughter-loving goddess, who was generally represented open and exposed in a considerable part of her dress. From the nature of the character, therefore, and from memory, a positive contradiction would be given to this part. He would now proceed to take another instance. Their lordships would now call to their recollection the circumstances given in evidence as having occurred at Carlsruhe. Even as that stood at present, it was rendered impotent, when they considered the interference that had taken place for the prosecution and against the Queen. He alluded to the subtraction of a witness, whom the Queen desired to attend, and who was compelled not to come at the Queen's desire. Yet, although this interference was used to deprive the Queen of evidence, truth was not here without a witness. In page 188 *(Ch. p. 166)*, their lordships would find the evidence of Kress, who fixed the time between seven and eight. In contradiction, they were able to prove the dining of the Princess and Bergami abroad every day they were at Carlsruhe. On one day only, when Bergami was dining, he believed, with the Grand Duke—but that was not material—but he retired, from where he dined with the Queen unwell. Some music was afterwards given by the Grand Duchess, and the witness who would be called remembered it well, from having taken part in the musical performance. The Queen was there, and remained there two hours after the departure of Bergami. It would also be proved that, when she returned, Bergami was up and well, having had but a slight indisposition—a head-ache he believed. This completely covered the time Kress spoke to; and the dress and appearance of Bergami which would be proved by the witness who accompanied him home—and his dress on the arrival of the Queen, the proof of which did not rest on one witness only, for two witnesses would speak *to that fact—these* circumstances completely met

the evidence of Kress. The witnesses to be produced for the Queen upon this point, speaking to facts with perfect recollection, were sufficient; above all when they were able to produce evidence respecting Kress, which would render her not fit to be believed upon her oath. In these circumstances, the witnesses they would call would satisfy their lordships that the evidence of Kress was not only not sufficient to deprive the Queen of her dignity, but utterly insufficient to deprive a sparrow of a feather of his wing. But thus would their lordships find every part of the evidence either contradicted or incredible, on the testimony which supported it. He now wished to direct their attention to pages 301 and 302 (*Ch.p.* 342), for the evidence of Bergami's return to Charnitz from Inspruck. There again was presented proof of adulterous intercourse, according to the opening of the Attorney-General, the summing up of the Solicitor-General, and the examination-in-chief of Demont, although she fell off somewhat in the cross-examination, at page 363 (*Ch. p.* 414). Proof of adulterous intercourse was to have been established from the intercourse on this occasion in respect of the bed-room, and other respects, whereby, he supposed, was meant eating and drinking; for all these circumstances were necessary in decking the case against the Queen of Englaud. They were in a condition to prove the time of Bergami's return when the Queen was indeed in bed: but she had all her clothing on; and there was good reason—there was severe frost, and the wretched inn was shut up with snow. A witness whom he would call returned with Bergami from Inspruck, and continued with Bergami for two hours afterwards, preparing for the departure of the Queen and her suite. This witness had been during that time more than once in the apartment of the Queen, communicating how they were proceeding with the preparation; and by the appointment of Bergami, who was engaged in making the necessary preparations. That injurious statement which was founded on the circumstances here—the imputation attempted to be cast upon the Queen—the insinuation of the shadow of a fact—all would fall before the facts and evidenee which he verily believed they would be able to furnish to their lordships. The person to whom he had alluded was the best witness to the transaction, from the circumstances *of having* been engaged in the preparation. But they

were able to produce not less than three others to the facts, in refutation of the adverse imputation. He would now call attention to another fact respecting details of evidence, which it was lamentable to see gone forth to the people of this country. It was in page 438 of the evidence. (*Ch. p.* 456.) Sacchi, Sacchini, or whatever name he chose to be called by, was the author of this evidence. He alluded to the memorable journey to Senegaglia, when this witness described his drawing of the curtain, and seeing the indecencies which he (Mr. Williams) would not mention more particularly. Three times over had Sacchi, according to his testimony, seen those indecencies. It was thought necessary thus to make assurance doubly sure. Now, in the first place, it would be proved that the Queen travelled in a landau, and that there was no curtains to be drawn belonging to that carriage. In addition, it would be proved that in that journey Sacchi was not the courier, or the person whose office it was to do the duty which he had so minutely represented. There was indeed a spring blind, but not a curtain, and it could not be removed by a person on the outside. Another person, who well remembered that journey, had been the courier on the occasion, and the witness would state to their lordships his reasons for remembering it. Many witnesses would speak to this part of the case, and prove that the person to whom he alluded was the courier. He did not waste time in commenting on this contradiction. If Sacchi was not there, he saw not what he swore he had seen. If there were no curtains, Sacchi did not draw them. He would further be enabled to prove the falsehood of this testimony by the presence of a person who had been in the carriage on the journey, and who would negative the statement of Sacchi, so far as that was possible in such a case. Their lordships might again remember that Demont, in page 295, (*Ch. p.* 336.) spoke of the bed-room of the Queen being changed in the Villa d'Este. Of course all was for the same purpose—all was for the purpose of adulterous intercourse—every act and every change was marked with that tendency. If her Majesty had a smoky bed-room, to change it was of the same tendency. Nothing was done but some injurious imputation was raised from it. It would be proved that the bed-room used by the Queen had excessively annoyed her with smoke in the winter season; that *on that account it was* necessary to provide another apart-

ment for the Queen on the occasion alluded to; and that that was done accordingly. This, however, she changed, to avoid the inconvenience of having to go to the very extremity of the house, from the sitting apartments usually occupied by her Majesty, this room selected being closer to those sitting apartments. The result was, that her Majesty, in going from that other substituted apartment to the sitting-rooms of the Villa d'Este, had to make the tour of the whole house. To avoid this inconvenience, not a new door—(for that was the gloss which had been put upon the matter by the other side)—not a new door was made, but an old door renewed, in order to make the access to the other apartments some ten times nearer (as he was informed) than it would have been by the circuitous route to which he had alluded. This was the plain history of the change of the apartments, upon which he should not have troubled their lordships, but that the evidence which had been given on the point had been stated to be all corroborative of the charges stated in the preamble of the bill. There was another fact, which he believed it was necessary he should advert to; and that was, the bathing in the Brescia, detailed in the evidence of Antonio Bianchi p. 398. (*Ch. p.* 431.) Their lordships might remember that it was a very considerable time before any thing could be made of him; he could not, in his answers, make out where the bathing was to be; whether in a pool or a mill-dam; in water or on land; or in what other situation. He was, indeed, in main confusion throughout the whole of his examination; and not without a cause. Now it turned out that the scene of this bathing was laid in the Brescia; and he (Mr. Williams) understood it would be distinctly proved that the Brescia was altogether a mountain stream; that is to say, that in reasonably dry weather there was no water at all; and in the rainy season it was so swollen as to render any bathing in it pretty much like bathing under London-bridge at low water. Bathing would be about as agreeable in wet weather as it would be at low water under London-bridge; and, in dry weather about as possible as it was to bathe upon the bridge. This, he was sensible, was really not a part of the evidence upon which he ought to trouble their lordships, thinking, indeed, that the fact, if true, did not merit the taking up of their time. However, as it *formed a part of the* matter of the preamble, out of

condescension to those alarming and significant words in which it was couched, he had chosen to open this part of the evidence. There was one thing more to be noticed; and, after that, he did not know that he should have to trouble their lordships with any other point. Their lordships must see that he (Mr. Williams) had all along taken facts, not constructions; that he looked at the acts charged, not at detailed parts of them; that he had not selected minute portions, not particular bearings; but that he treated the facts and circumstances charged according as they were made out by the evidence of this person or the other. This was a matter which he was induced the more particularly to mention, because this was one of those parts of the evidence upon which his learned friend, the Attorney-General, assuming it to be entirely true, had ventured, (and wisely ventured, in that belief) to throw out a challenge to his (Mr. Williams's) learned friend; they had accepted that challenge, and were intent to try the question of the veracity of a witness, in whom the other side so entirely confided. In page 223 of the evidence, *(Ch. p. 283-4.)* in the answers of the mason, Raggazoni, their lordships would find that antediluvian scene of Adam and Eve, which they would remember, no doubt. He need only allude to it, at any rate, in order to recal it to their lordships' recollection. They would find, at page 223, *(Ch. p. 283.)* that this honest person described himself to have been working in a grotto, and upon a cornice in a round room; and very lucky it was that he had happened to condescend to give their lordships his particulars; for the place of these statues of our first parents had certainly two positions. At one time they were in the house; but that applied, of course, to the garden. If he had been speaking of the house, and meant that he was working at the cornice in the round room, this honest man had represented himself to be in a place about as convenient for seeing what passed with regard to the statues as if he (Mr. Williams) should take his station in St. Paul's Cathedral, for the purpose of seeing what passed in their lordships' house. One was not more convenient than the other. While Bergami and the Princess were in the grotto, (or rather, in a portion of what was called the grotto,) this man said he was at work upon a cornice in a round room. There was a round *room adjoining* this too; another and *another. So that, if Honesty* was at work at all, he

could not look into them; the Adam and Eve which stood in the grotto were just as much out of sight as their lordship's house would be if he (Mr. Willliams) were situated in the way he had just mentioned. When he observed that this would be shown in proof, it did seem odd that they (the Queen's counsel) should have been so challenged by his learned friends, even if those learned gentlemen supposed, as they might fairly suppose, that this man would give no calamitous evidence, of which her Majesty's counsel might get hold, and avail themselves. The challenge, however, had been given, and it was accepted. They (the Queen's counsel) should prove to their lordships that Raggazoni could not see what he had deposed to have seen by the laws of optics—by the laws of nature, rather—and consequently that the testimony he had borne against the Queen of these realms was false, foul, and malignant. Was he not wasting their lordships' time—was it not almost an unnecessary observation—when he said that if any portion of this evidence was satisfactorily disproved, it being one of the ingredients of their whole case—a case which was most peculiarly circumstanced with reference to its coherence and integrity, (for it ought to cohere, and to be entire—more than cases in general,) it must fatally affect the remainder? Here was a case where the witnesses had been most peculiarly, he might say, most unusually treated, too; a circumstance which must weigh with their lordships. They had not been sent over without the license, the authority, the "imprimatur" of the Milan commission: none had been sent without having the stamp of that commission, without bearing the impress of the mint there; and then they had been kept and held together in a manner such as was never known with any other witnesses of whom he had ever heard. Having been sent over from Italy, they were caged and cooped up altogether, in a most unusual way, as if there was an official impression of some kind set upon their faces, or their backs, for he knew not which. The impeachment, therefore, of a part of such testimony, was of much more weight and importance than in general and ordinary cases. But these were not mere straggling transactions to which he had been alluding: they were not mere detached parts that were affected: but the whole foundation of the case on the *other side.* He did not deal merely with the outside—*the exterior surface*: but that to which he had solit-

cited their lordships' attention cut off the "succus et sanguis" of the case, if it was a case at all. If they found a witness in one part of his testimony wilfully and solemnly deposing to a false fact upon his oath, what man could believe that he would truly depose in another part? A story or narrative was usually and frequently made up of the evidence of many persons. One person, he would suppose, went to one quarter, and, at his return, said he had learned so and so: another individual, in another place, was informed of other particulars; and a third party, in a third place, was informed of more. Now, in such a case, any part of these accounts being cut away, the others might still remain, and those portions of the narrative might be received. But the veracity of a man was another thing; and if that were shaken in any part whatever, who was to stand up and say, "here is falsehood, malignity, calumny, and perjury on one part?" Who, he asked, was to draw the line, and to declare, "so far this man is not to be believed; but, in the other part of his testimony, this and that, and all here, is sound and veritable." In human affairs this was clearly impossible. No man could draw that arbitrary line; the veracity of a person being impeached in one part of his testimony was impeached through the whole. They could not separate it. It was a shaking of his testimony from first to last. According to this test it was, that his evidence was to be considered; they must take it to be good because unimpeached, or reject it as bad, because impeached. There was no medium, as upon this subject, in human affairs; and there was none in judicial proceedings, civil or criminal. Their lordships must also bear in mind, that it almost always happened that any fiction, which was meant to operate to the injury of a person, was not merely a fiction; but was the grafting on a story—of which one part was true, and the other false—that malignity, which only the fiction could support, and which it was the object of falsehood to establish. This was, at least, true generally; and was there any thing in the present case from whence it might be inferred that there was a way of building upon a substratum of fact all that malignity or enmity could devise, without having recourse to fiction? Their lordships, he need here hardly remark, would all recollect that *the scheming chambermaid*, who had been examined *at their bar, kept a journal* of sundry events and

transactions occurring during her residence and connexion with the Queen. This record was kept during her moments of veracity ; and in it their lordships had seen how (and very justly) she had lauded, extolled, and eulogised that generous and gracious mistress whom she had since perfidiously calumniated and betrayed. Those facts which she had written down furnished, eventually, a very proper foundation for that superstructure of falsehood upon which the present charges had been raised. There his learned friend, the Attorney-General, might find all the assistance he needed upon some points ; the date of her Majesty's journeys—the periods of her returns. If this were true, as it was—or if that position for which he had been contending was untrue—how came it that this refuge to the Queen, this suitor to her bounty, had quitted, for reasons best known to herself, the home which had received, and the Queen who had protected her ; and with the assistance of another person, of equal character, but perhaps of less ingenuity, had proceeded to adapt, to genuine and undoubted facts, facts of foul falsehood and calumny, and of the utmost prejudice to the Queen? When he heard the adverse case torn to pieces, as it yesterday had been by his honourable and learned friend (Mr. Brougham), in such wise, that, to his mind, (although he (Mr. Williams) as an advocate—and, thank God, a zealous one he was for her Majesty—might not feel impartially in the cause, perhaps) that case was shaken to destruction by the powerful argument and language his learned friend made use of on the occasion ; he had been almost tempted to cry out, in the words of that impassioned exclamation of Cicero,—"*O magna vis veritatis, quæ contra hominum ingenia, calliditatem, solertiam, contraque fictus omnium insidias, facile per se ipsam defendat !*" But when he saw, that after the lapse of so much time, when the memory of persons might have failed them, and time itself have cast its mantle over many important occurrences—when he saw the expectation, which was apparent of so much being proved—then did he hesitate to confide in that declaration, although it proceeded even from Cicero ; and then did he feel, with his learned friend, the Queen's Attorney-General, that the issue of this great cause must rest with Providence, who ever effectually protected the innocent as it *were with a shield*, and whose gracious help did most *wonderfully maintain* and defend the desolate and the

oppressed. He should now cease to sum up the evidence on behalf of her Majesty by reminding their lordships of two of the witnesses on the other side—two arrows from the quiver of his adversaries. He should call on her Majesty's behalf, two witnesses—Captain Pechell and Captain Briggs; the only two men (he meant no national reflection in saying so) upon whose testimony their lordships could, with the utmost confidence, with the most implicit reliance, beyond all shadow and manner of doubt, place their hands upon their hearts and say, "This is the evidence which we can implicitly believe." Captain Pechell, with the honourable candour of a man and an officer, and although not without some slight grounds of offence existing between himself and her Majesty, spoke nothing against the Queen. The other hon. and gallant officer, Captain Briggs, spoke decisively for the Queen. Now, if the alleged attachment of her Majesty was, indeed, this violent, obstinate, and insurmountable passion—if it was one that could not be concealed from eye-witnesses, and those by twenty at a time—if it was one that must be gratified in market-places, or on shipboard—that was then in the height of its inflammation—he would ask, upon these suppositions (that is, if the case on the side was true), could nearly three weeks together have been passed on board his Majesty's ship the *Leviathan*, and nothing of all this have transpired? The adverse impression, and the supposition of the domineering passion under which the adverse counsel placed the Queen—and the absence of all proof which such an occasion required, namely, proofs strong as those of holy writ—such as would satisfy their lordships and the people of England, and such as might have been had, if they existed—spoke volumes. The proofs in favour of the Queen, on the other hand, spoke in the language of complaint before their lordships. What system was this? Were they not daily hearing, and hearing in the shape of lamentation and complaint, that there existed in the country at this time a turbulent and insubordinate —and every now and then, "ever and anon," it was said—a treasonable temper, also, amongst a no small portion of the people? Did they not know it to be asserted; was it not perpetually rung in their ears, "that the laws were beheld with contempt in their inaction, and with *disgust in* their execution?" Did they not, moreover, hear, almost in the language of

a writer to whom he had just alluded (and who applied that very description to this country just half a century ago)—he meant Mr. Burke—the same complaints which were then prevalent, and upon which he observed, "that the country stood in need rather of reformation than of support?" Did they not hear it deplored now, as it was lamented then, that rank, and office, and title, and all the solemn plausibilities of the world, were falling into disrespect? Was all this true, or not? If it were true, what were they now doing? Was the principle of incapacitation to be confined to the other sex? What was it, he repeated, that they were now doing? He did not say that their lordships were casting a legislative measure of a doubtful import; a formal measure, which might be possibly, but feebly and lately, injurious; but which might also be greatly advantageous, and for which, therefore, some penalties should be endured: but they were casting a lighted and burning firebrand, of no other than an anti-monarchical quality, into a magazine filled with materials ripe for combustion and explosion. Such would be the fatal catastrophe, if this demoralizing and dethroning investigation were pushed to its utmost extent, and that, too, upon such evidence as had been adduced at their lordships' bar. It was not for him to answer these several questions. He would put the subject no further to their lordships; but that their lordships (according to, and complying with, he would not say—but)—not disdaining the precedents of those great judges to whom he had alluded—who looked, by their conduct, to the interests of posterity, and who, it seemed, were of the same mind with the universal feeling cherished by the people of the country—that their lordships might by such means assuage heats, remove animosities, and haply, peradventure, and by great good fortune, even yet maintain the peace and prosperity of this great empire—was the second wish that animated his heart. The first was, since hazards were incurred and consequences had been neglected, that, at whatever hazard and with whatever consequences, the cause of substantial justice might triumph.

Earl Grey then rose.—Before the House proceeded further with the investigation, he wished to call their lordships' attention to two statements that had proceeded *from* the learned counsel; and which, to him, appeared *of so much and so* deep importance, that he should not

feel to have discharged his duty unless he submitted to them the propriety of calling in counsel to know whether they were ready to proceed to the proof of their assertions. He alluded to the statements made by the learned counsel of the means which had been used for the obstruction of evidence in favour of the Queen, which they stated to be of a most important nature. Two different instances had been brought forward: the first relative to the chamberlain of the Grand Duke of Baden, and the other to General Pino. He was sure their lordships would excuse him for his earnestness upon a subject so deeply affecting the character and justice of their proceedings. The noble earl opposite (Lord Liverpool) had stated, on a former occasion, with that frankness and propriety which he thought generally distinguished his conduct, that whatever influence this country possessed with foreign powers, and which could be at all employed in collecting evidence for the Crown, should be equally applied, if required, for the production of witnesses in the Queen's defence. That declaration, at the time, was satisfactory to every body who heard it; and, in his mind, not more so than was consistent, as he was convinced, with that fairness and love of justice by which the noble earl was always actuated. In the printed evidence, page 202, (*Ch. p.* 268.) their lordships would find these questions and answers, on the cross-examination of Barbara Kress:—

"Who was it that told you you should get compensation?—Our minister.

(Now this minister appeared, by a former part of her examination, to be the minister of the Grand Duke.) The examination was thus continued:—

"What minister are you speaking of?—M. de Berckstett: that gentleman told me that, if I would not go voluntarily, I should be forced. I told him I must be compensated for the loss of my situation; and so on.

"What minister is this?—I cannot tell this.

"Is he not minister of the Duke of Baden?—I do not know whether he is minister of foreign affairs or for the interior."

Here, then, a witness, produced in support of the charges, said she had come under a compulsory threat from the minister of the power to which she was subject. She was herself unwilling to give her evidence at that bar. It had since been affirmed by counsel that the chamberlain to the Grand Duke of Baden was a witness most important for the Queen; that he was appointed to attend upon her *during the time* she was resident at Baden:

and that was a very material witness, in order to contradict the evidence of Barbara Kress; that repeated applications (he understood the learned counsel to have said no less than three) had been made, both to the chamberlain, and to the Grand Duke himself; and that the chamberlain was willing to appear, but had been prevented, by that authority which he could not resist, from coming. He would admit that it might be right in the government to use their influence abroad for the bringing forward of foreign witnesses: but he would only beg to observe, that if that influence was used for that purpose on one side, it should be on the other. If, however, it should appear that there had been any direct influence used, or any exertion of their power made, to prevent the Queen from having those witnesses that were material to her defence, it would be so foul and so flagrant a mal-administration of justice, that he had no doubt, whatever might be the course in other courts of justice, that their lordships would be bound to suspend their proceedings. The other case was of a similar nature, and regarded General Pino. Applications were said to have been made in the same manner, and permission was asked by the General from his government to come over to England: that permission was given; but the Austrian government accompanied it with an intimation, that, if he did, he must not wear his uniform in England. This was so extraordinary a reservation, that it required to be explained, the General not being certain whether it would not amount to a resignation of his commission. This was what he (Lord Grey) had heard: he was sitting here only as one of the judges; and if the statement were wrong, let shame fall on those who had asserted it. General Pino, of course, could not consent to come at the sacrifice of his commission, or under any uncertainty, upon a point so deeply important to him. It had, therefore, been stated to the House that the administration of justice had been directly obstructed, because witnesses had been prevented from being obtained who were necessary to the defence of her Majesty; or because the influence of those governments had extended to their subjects who had been allowed to come here as witnesses. He was sure that the first feeling of their lordships would be, that the matter ought to be explained; and, with all proper submission, he *must still suggest* that counsel should be called in, to

state whether they were prepared with proof of the assertions made by them; and, if they were, that their lordships would proceed with that inquiry first, before they went on further with the investigation.

The Earl of Liverpool entirely concurred with the noble earl in thinking that all they had been doing in this case would amount to little more than a mockery of justice, if the same principle were not applied with respect to the production of evidence on one side as upon the other. Whatever restrictions or precautions might be used in the management of that business, he had no hesitation in saying, that the same principle ought to apply to each. Before he replied to the two cases cited, he felt it due in justice to himself, and likewise to his Majesty's government, and particularly to that department with which this affair more immediately rested, to state that they had the means of proving at the bar that such had been the impartial application of the influence of government. He relied confidently on the honour of Dr. Lushington and Mr. Vizard—and he spoke of the two persons who had been more immediately consulted on the subject—to state, that when this proceeding first commenced they were informed, that whatever applications or requisitions they might have to make to foreign governments, they would be immediately made on application to the office of the Secretary of State. Moreover (a thing which those conversant with these matters must know was not very usual) copies of all communications so sent to foreign courts were shown, and, he believed, were given to them. Then, with respect to the north of Italy (the most material part, on account of the number of witnesses to be derived from thence), those gentlemen were informed that if an agent were appointed by them to collect evidence, this government would write to the Austrian government to request that all facilities should be given to him without the necessity of any application to foreign powers, or even to the British ambassador. The matter was put upon this footing, because it was presumed that some agent would be necessary. The agent on the part of the Crown was Colonel Brown; the agent nominated on the part of her Majesty was Mr. Henry; and her legal advisers were informed that whatever requisitions he might make would be immediately acceded to. Now he stated this to show that every *thing that could have* been done had been done

by his Majesty's government; and if any special difficulty had arisen from the circumstance of this country having no accredited agent resident at Baden, he would undertake to say that, if any application had been made to this government every exertion would have been made to obviate it. If her Majesty's counsel, instead of sending two or three agents into Germany in her Majesty's behalf, had applied to his Majesty's ministers for the removal of this obstacle, he would pledge his honour that not a single moment should have been lost in sending a special messenger to Baden. Indeed he would now promise the learned counsel, that if they were of opinion that the evidence of the individual in question was material to their case, two hours should not elapse before a special messenger should be sent to request his attendance. After again reminding their lordships that no application had been made by the accuser's counsel to his Majesty's government, he stated that it was not for him or their lordships to judge what the causes were which had induced them not to make such application: they were unknown to their lordships, but, beyond a doubt, were satisfactory to those who had acted upon them. Still he must repeat, that if they now wished application to be made, two hours should not pass away before it was made. As to the witnesses coming from the north of Italy, he wished their lordships to be in possession of all the instructions which had been issued by government respecting them, and they would then find that every exertion had been used to facilitate their passage to England. As to the reason which General Pino had given for his non-attendance, he must take the liberty to state that, from the correspondence which he had himself seen, he did not believe it to be the true one. The rule which the Austrian government had made, prohibiting any military men, who might have to appear as witnesses, from wearing its uniform, applied equally to the witnesses on both sides of the question. That order had been issued immediately after the occurrences at Dover had come to its knowledge. [Here some noble lord said—"It is the custom."] His noble friend had informed him that it was not customary for officers in foreign service to appear in uniform before any civil tribunal: whether that was so or not, was a matter of indifference to him, because any government which did *not wish to have* its uniform insulted would be justified

in making such a rule as he had just described. But it had been stated that General Pino had thought that it would be derogatory from his character to appear before their lordships out of uniform, and as a private individual. Two English officers, however, had so appeared, and did not consider themselves to be degraded by so doing. Indeed his own belief was that no such reason operated on the mind of General Pino as he had stated; but that some other reason did operate, which he did not choose to avow. With regard to the situation of Baron Dent, and the other chamberlain of the Grand Duke of Baden—if, indeed, there was any other—he would again repeat, that, if her Majesty's counsel would furnish him with their names, a special messenger should be dispatched in the next two hours.

The Duke of Wellington said, that according to the regulations in force in the Austrian army, respecting the appearance of its officers in uniform, even upon courts martial in their own army, they were not allowed to appear in uniform as witnesses, lest any disgrace which might attach to them, in consequence of their testimony, might be supposed to attach to the uniform in which they were arrayed.

The Lord-Chancellor then addressed himself to her Majesty's counsel, and informed them that he was commanded by the House to ask them whether they were then prepared to prove the assertions which they had made regarding the non-attendance of the chamberlains of the Grand Duke of Baden and of General Pino.

Mr. Brougham.—As her Majesty's counsel had not expected to be called upon to prove those assertions in that stage of the proceeding, they had not made arrangements to that effect. They were not, therefore, at that time prepared with their proof, in all its particulars, of what related to General Pino. Part of it depended upon witnesses who were then abroad in the employment of her Majesty, especially of Mr. Henry, who was now at Milan, collecting evidence for her defence. They had letters, however, from her Majesty's agents abroad, which, in any ordinary case in the courts below, would authorize a solicitor to offer an affidavit of facts to the judges. With regard to what had occurred between her Majesty's agents and the Chamberlain of the Grand Duke of Baden, they were perfectly prepared with their *proof, and were ready to offer* it that moment to their

lordships, prefacing it, however, with one remark—that they had not applied to his Majesty's government; because they knew that, even if ministers did interfere with their influence, that influence would be nugatory, when exercised in behalf of her Majesty, though it would be quite sufficient to throw impediments in her way, when exercised against her. He did not mean to insinuate that the influence of government would not have been exerted, had he applied for it; no doubt it would have been exerted, and that too *bona fide*; but, judging of it from its effects, it would have had no validity, as far as regarded her Majesty. They did not, however, know that such interference would be requisite till within the last few days, and that was a sufficient reason why it had not been desired. Besides, they did not choose to make known to the opposite side who the witnesses were whom they intended to call; because they should proceed to show, before they arrived at the conclusion of their case, that the very suspicion that it was intended to call a certain individual in behalf of her Majesty had led to an endeavour of the opposite party to practise upon him. They were ready to enter into the Baden case at that moment. To the case of General Pino, and the other officers who were desirous of appearing in behalf of her Majesty, they would proceed at a future period, as also to the practices of Colonel Brown, which formed a part of their case.

A short pause here ensued, which was broken by *Mr. Brougham* saying, that Barbara Kress had stated, in her evidence, that M. de Berckstett had told her, that if she would not go voluntarily she should be forced; but that she had afterwards said that she did not know whether he was one of the Duke's own ministers, or only a minister at the Duke's court. The Queen's interpreter (Mr. Garston) had said that it was the minister for foreign affairs. Mr. Goltermann had said that it was a foreign minister. It was indifferent to him which he was; but they could prove, most probably, by his Majesty's secretary of state for foreign affairs, whom he then saw in the House, that he was a minister of the court of Baden. Perhaps the opposite party would save him the trouble of proving, by admitting it.

Earl Grey could not help remarking that the case had assumed a very different appearance, now that it was *stated that no application* for their interference had been

made to his Majesty's government. The mode of proceeding which he had recommended was no longer rendered necessary by the circumstances of the case.

The Lord-Chancellor said, that he was commanded by the House to inquire of her Majesty's counsel, whether, as they had not called upon the British government to exert its influence with the Grand Duke of Baden to compel the attendance of his chamberlain, they considered his evidence to be of material importance to their case?

Mr. Brougham.—Most unquestionably we do. We have only failed to apply to his Majesty's government for the reasons which I have above stated, and also because we only knew of this insurmountable obstacle within the last day or two.

The Earl of Liverpool said, that as no application had been made to his Majesty's government, no imputation for unfair dealing could be made against them, and therefore there was no reason why this inquiry should not now go on. Her Majesty's counsel had no right to assume that an application, which they never designed to ask his Majesty's ministers to make, to procure the attendance of the chamberlain of the Grand Duke of Baden, would have been ineffectual: when it had been made, and made in vain, it would have been soon enough for them to have complained. He again offered, if her Majesty's counsel thought the testimony of that individual important to their case, to exert himself to the utmost to procure his attendance.

The Lord-Chancellor thought it to be his duty to state, that if the learned counsel at the bar thought it material to call witnesses to any part of their case which they had opened, they had most unquestionably a right to do so at that moment: and if they thought fit to prove the facts which they had stated, relative to the Duke of Baden, in that stage of the business, it was certainly left in their discretion to do it. But even if they proved those facts, material as they might be in other respects, they could be of no importance as to the suspending of the present inquiry. He was strongly impressed with the opinion—and he wished to impress it upon their lordships—that, in forming their judgment upon this case, they could not do substantial justice to her Majesty without considering that she had no power of enforcing the attendance *of many of the* witnesses whom she might

have occasion and might wish to call. Over witnesses residing in England an order of their lordships would have all the force of a subpœna in ordinary cases; but over foreign witnesses that order would not have the slightest authority: the only way to compel their attendance would be by employing the influence of the government at the court of the country of which the witness was a subject. That point ought never to be forgotten; but even if all that the learned counsel had stated regarding the chamberlain of Baden were to be proved in evidence, no reason would exist for suspending the inquiry, inasmuch as the learned counsel, in the exercise of what he had no doubt appeared to them a sound discretion, had refused to make application to his Majesty's government for its interference. He did not make these observations to prevent those learned counsel from entering into proof of those assertions; certainly not; they had most unquestionably a right to enter into any part of their case at that moment.

Earl Grey repeated his opinion, that, as application for the interference of the British government had not been made by her Majesty's counsel, no grounds existed for suspending the present investigation.

The Earl of Donoughmore complained that her Majesty's counsel had made a statement imputing injustice to the government, when in fact no injustice whatsoever had been committed by it. Such a statement, coming from such a quarter, was calculated to increase the irritation which already existed in the public mind; and he was sorry to say that that was quite needless. So much inflammation had been already excited, so much misrepresentation had already gone abroad, that many noble lords who had taken part in the present transaction, and who had had no other object in view than the obtaining of substantial justice for all the parties concerned in it, stood before their country almost in the situation of culprits. He had wished to resist the torrent of misrepresentation which had inundated the country in the first outset of this business; but it was continuing to roll unobstructed to the end of it. Imputations, he must again repeat, had been thrown out against the government, which were proved to be untrue, even by the statements of counsel themselves. If her Majesty was in want of the witnesses who were material to her defence, it was the fault of her counsel, who had not

made use of the means to procure them which were in their power. Of this they must be themselves aware; though they asserted the contrary for no other purpose than because it served to round a period. He deemed it right, once for all, to assert it as his belief, that no insinuation of acting unfairly would be thrown out against the government which would not instantly be proved by them to be most false and ill-founded.

Lord Holland observed, that nothing, in his opinion, could be more unbecoming than for noble lords, who were sitting there as judges, to be entering, in the present state of the business, into discussion and controversy with the learned counsel at the bar. Still, after what had passed, he could not help stating to their lordships the impression of his mind with regard to the nature of the statement which had been made by his honourable and learned friend at the bar. His noble friend who had just spoken, had stated, that counsel had thrown out charges against the government: for his own (Lord Holland's) part, he understood no such thing to have been either done or intended. As the learned counsel must be considered as having withdrawn from the bar, he trusted that they would not, on their return to it, take any notice of what had occurred in their absence especially as it appeared to him that what they had said had been misunderstood. His learned friend had been stating those circumstances which had prevented him from having his evidence so complete as he could have wished. He had stated that the arm of power had prevented him from bringing certain witnesses to their lordships' bar; but he did not state what that arm of power was, or by whom it was wielded. It was sufficient for him to state clearly, strongly, and temperately—and indeed, if the facts which he had mentioned in the opening of his case admitted of proof, it would have been a dereliction of his duty not to have stated it—that he had been prevented from bringing forward certain witnesses essential to his client's case by an influence which he had it not in his power to resist. And yet it was said that the learned counsel had dealt in unfounded insinuations! He called upon the House to consider what an effect would be produced throughout the country, already in a state of great agitation, if noble lords were seen rising up, when the cause was only yet half examined, to answer the arguments adduced

by her Majesty's counsel. He would not pretend to define what sort of insinuations a counsel might indulge in, and what he might not, because he was not called upon to do so; but he would only say, that if with the learning, talent, and ability, possessed by the counsel at the bar, they endeavoured to excite ideas in the judges calculated to guard them against the artifices of fraud or the delusions of prejudice, they were only doing their duty; but if they attempted to do more, it was the business of the court to interfere, and to say to them, "You are transgressing the bounds which duty prescribes to you, and must not proceed in that course of argument." But that must be done at the time when they were so transgressing: if it were not done then, did they think that their character would be improved with the country, if, after having sat to hear that train of argument, a noble lord should think it consistent with his honour and dignity to start up, and immediately reply to it? It was their lordships' duty to hear whatever it was the duty of counsel to state to them: it was likewise their lordships' duty, if counsel exceeded their duty, to interfere and check them: but it was not the duty of their lordships, either as members of a judicial body or as members of Parliament, to interrupt the course of a judicial proceeding, and to rise up and answer the arguments of counsel before their case had been brought to any thing like a final termination.

The Earl of Donoughmore explained.

The Lord-Chancellor concurred with the noble baron who had recently addressed them in thinking that it was unbecoming the members of that House to enter into controversy with the counsel at their bar. All their lordships possessed equal rank and authority as judges, and had full power to interrupt any counsel if he appeared to them to be proceeding in an improper manner. It was, however, a difficult matter to decide, without prejudging a case, what points were material in a counsel's speech, and what were immaterial, as he was urging them: though they did not apply at one time, they might at another; and, therefore, what often seemed irrelevant in one place was found to be highly necessary in another. If any thing improper had been urged on the present occasion, it would be his duty to apologize to the House for having permitted it; but he declared that, as far as he could judge, nothing of the kind had

as yet occurred. With a view to exercise a sound judgment upon this case, he had taken notes of what had fallen from counsel; and if his notes were correct, nothing had been yet uttered which could be justly found fault with. The learned counsel had first stated in his argument, that, under the peculiar circumstances of this case, it ought not to be demanded of her Majesty that she should call any witnesses in her defence. He had then proceeded to argue, that what had occurred at Baden had rendered it still more incumbent upon her Majesty not to call any, as he was ready to prove that the chamberlain of the Grand Duke, who was desirous of coming to give evidence in her behalf, had been prohibited from coming by his Royal Master, though that same Royal Master had compelled the attendance of another witness (Barbara Kress) who had been summoned against her Majesty. In all this there was nothing improper. The case of Gen. Pino he had stated in a similar manner. But it had been intimated that this latter case could not be proved. The learned counsel did not say that he could prove it in such strength as warranted him in using the same boldness of assertion regarding it that he had used regarding the former transaction: no; he only said that he believed it to be of such a nature as he had described. If he had any occasion to find fault with any insinuation which the learned counsel had made, it was with one which he had made when he said nothing; for, after mentioning that physicians were kept away, and that other people were kept away, he added, "and lawyers, too, were kept away—any body might tell the reason why."

After a few words, by way of explanation, from Lord Holland, JAMES LEMANN, the first witness on behalf of the Queen, was called in, sworn, and examined by *Mr. Denman*.

Are you a clerk to Mr. Vizard, the solicitor for her Majesty?—I am.

Were you sent by her Majesty to Carlsruhe?—I was.

On what day did you leave England?—On the 1st of September.

On what day did you arrive at Carlsruhe?—On the 14th of September.

Were you provided with any letters from her Majesty, addressed to any gentleman at Carlsruhe?—I had a letter from her Majesty, directed to the chamberlain of the Grand Duke of Baden, the Baron D'Ende.

Did you inform the chamberlain that he was required as a witness upon this proceeding?—Yes, I did.

Do you recollect on what day that was?—It was on the 17th that I first saw him.

Did you on that day make that communication to him?—I did.

Did you take his deposition with a view to instruct the counsel for her Majesty to examine him at the bar of this House?—The chamberlain of the Grand Duke keeps minutes of the transactions of every day; those minutes were at Baden: it was at Carlsruhe I saw him: the first time I saw him was on the road between Carlsruhe and Baden; I met him.

The witness answered this question in so low a tone of voice that he was not audible.

The Lord-Chancellor desired him to speak in a louder tone of voice, and to address himself to the House, and not to the counsel.

You first saw him on the 17th, on the road between Carlsruhe and Baden?—I did; I informed him that the object of my coming was to request that he would attend here as a witness on behalf of her Majesty.

Did you at any time take his examination for the purpose of instructions to counsel?—On the 20th.

Do you know whether he then had an opportunity of consulting his minutes?—Yes, he had; his minutes were at Baden, and he consulted them while I was by.

You took that deposition at Baden?—I did.

That was on the 20th of September?—It was.

Do you know whether the Grand Duke was at that time at Carlsruhe?—I know he was absent.

When did he return to Carlsruhe?—On the 21st.

The day after you had taken this deposition?—Yes.

Was the Baron D'Ende willing to come as a witness to this country?—Yes, he was.

At the time that you took his deposition on the 20th?—Yes, he was.

Did he state any condition on which alone he could come to this country?—He said he could not come without the consent of the Grand Duke.

After the return of the Grand Duke to Carlsruhe did he then make any statement as to his coming to this country?—He told me on the 23d, which was the morning he had seen the Grand Duke, that the Grand Duke had refused to grant him permission to come.

Be so good as to state, if you can, the precise words he made use of?—He came to me and stated, I have bad news for you, the Grand Duke will not let me go.

The Attorney-General here interposed, and said that he ventured to ask whether this gentleman was intended as a witness in the case; if he was, then he begged to suggest that his statement of what he was told passed between another person and the Grand Duke could not be received in this way as evidence. He made this observation merely if the witness's examination were intended to be on the case. If, however, it were merely for their lordships' information respecting any thing upon which the House had a desire to hear explanation, not touching upon the merits of the case, then of course he should not presume to in-

terpose, as he could have nothing to do with such an investigation.

The Lord-Chancellor.—What has been stated by the witness respecting the chamberlain's interviews with himself is perhaps evidence; but what he says the chamberlain stated to him as having passed between him and the Grand Duke is certainly not evidence.

The Attorney-General observed, that he merely interposed with the view of ascertaining if this were intended as evidence in the case.

Mr. Denman said, it was not tendered as such.

The Solicitor-General then said, that they had nothing to do with it in that view.

The Lord-Chancellor said that this might perhaps have an operation hereafter, as showing a reason why a particular witness was not forthcoming. It might in that way have some bearing upon the case.

Mr. Denman.—Did he state any other reason for not coming?—I am not aware that he did; he stated that he enjoyed his Hanoverian estates through his Majesty, or through his Majesty's kindness; but that he would not let that be a difficulty in the way of his coming to this country as a witness, because he was satisfied his Majesty would not think ill of him for coming as a witness.

Did you make any other application to him in regard to his deposition?—I did; I wrote him a letter requesting him to make a deposition, before the legal authorities of the town, of the facts he had stated.

Did he do so?—He did not.

Did he ever give you any other reason for not coming than that you have stated?—No.

Did he give you any reason for not making that deposition?—That he could not do it without the consent of the Grand Duke, and that he had not that consent.

Was there a person of the name of Mandeville there?—There was.

Was he in the presence of yourself and the chamberlain?—He was not.

At no time?—No; but he was in the hotel that I was in, and I dined with him most days.

He knew of your being there?—He did.

Did you communicate to him your being there on behalf of her Majesty?—I did not.

When did you return to this country?—The day before yesterday.

Do you know whether, during your stay at Carlsruhe, any other person arrived on the part of her Majesty the Queen?—A Mr. Sicard.

Do you know that yourself?—I saw him arrive.

You returned the day before yesterday?—I reached London the day before yesterday.

Lord Grantham.—In what language did this pass between you and the chamberlain?—Principally in English; he speaks English very well.

In what other language?—In French.

The Attorney-General in reply to a question from the Lord-Chancellor *said he had no question to put to this witness, and he was directed* to withdraw.

ANTHONY BUTLER ST. LEDGER, Esq. was then called in, and having been sworn, was examined by *Mr. Denman.*

Were you chamberlain to her Majesty the Queen?—I had that honour.

How long did you continue in that office?—About eleven years.

From what period?—From 1808 to October 1819.

Did you go abroad with her Majesty in the year 1814?—I went as far as Brunswick with her Majesty. Her Majesty dispensed with my accompanying her on her tour, on account of my health, and on account of my family, and she was good enough only to require that I should attend her as far as Brunswick.

You say her tour, what tour do you refer to?—Her intention of going abroad; it was then said Germany and Italy, as I understood.

Was that understood before you left England?—It was so.

According to that permission, did you leave her Majesty at Brunswick?—According to that permission I left her Majesty at Brunswick, as she was good enough to say, that when I got to Brunswick I might return when I chose.

In the course of the last year, the year 1819, did you receive any communication from her Majesty?—I received a communication, I think it was in the month of July or August, I cannot charge my memory at present which, that her Majesty intended to be in England in the month of September.

The Attorney-General objected to communications between her Majesty and Mr. St. Ledger being received in evidence.

Mr. Denman said he would put them in a different form if his learned friend pleased.

In consequence of any communication you received, did you make any preparation?—In consequence of that communication, I prepared to go and meet her Majesty, as she desired, at Dover.

Has the state of your health rendered it impossible for you to attend her Majesty from the time you left her at Brunswick till the present time?—The state of my health has been such that unfortunately I could not attend her Majesty; I have been obliged to go into Devonshire for five years past, where I have been entirely confined all the evenings during the winter months.

Since her Majesty's return to this country, have you paid your respects to her?—Immediately on her Majesty's return to this country I paid my respects to her.

In consequence of the state of your health, did you resign your office?—In consequence of the state of my health only; I had the honour of communicating to her Majesty that I should be prevented attending her, and I requested her on that ground to receive my resignation.

The Solicitor-General stated that he had no questions to ask this witness, who was accordingly directed to withdraw.

The EARL OF GUILFORD was then sworn by the *Lord-Chancellor,* at the table, and was examined in his place, and by leave of the House, as also with the permission of the Earl of Guildford, the questions were put directly *to his lordship by Mr. Tindal,* instead of to the *Lord-*

Chancellor in the first instance, and through him to his lordship, as is the usage and practice of the House.

Does your lordship recollect when her present Majesty was at Naples?—I recollect coming to Naples after her Majesty was there. Her Majesty was already there when I arrived at Naples.

About what time was is when your lordship arrived there?—I think it was in the very beginning of March in the year of our Lord 1815.

Did any one accompany your lordship upon that occasion?—My sister Lady Charlotte Lindsay.

When your lordship arrived at Naples, who formed the suite of her Majesty?—To the best of my recollection the suite of her Majesty were formed by Lady Elizabeth Forbes, the Honourable Keppel Cravan, and Sir William Gell, and Doctor Holland was there as her physician at the time.

Does your lordship remember at that time any person of the name of Bergami?—Yes, I recollect seeing that person.

In what situation was that person at the time your lordship first saw him?—As far as I understood, he was courier.

How long did your lordship remain at Naples?—I remained at Naples only three or four days, three days to the best of my recollection.

Was Lady Charlotte Lindsay with your lordship when you went there, or did she arrive afterwards?—She arrived together with me, we travelled together from Nice to Naples.

Did Lady Charlotte Lindsay accompany your lordship when you left Naples?—No, she did not; I left Naples before her.

Where did your lordship next see the Queen?—At Rome.

What interval was there between your seeing her at Naples and seeing her again at Rome?—A very few days, the exact number of days I cannot remember, but it was but a few days before I saw her Majesty at Naples.

How long did her Majesty remain at Rome?—A very few days, I think not more than two or three days; I know it was a very short time.

During that time did your lordship dine with her Majesty?—I do not think I did at Rome.

Had your lordship dined with her before at Naples?—Yes, I had dined with her once at Naples.

Does you lordship recollect who dined there upon that occasion?—Particularly I do not remember; there was a considerable party, but the particular individuals who dined there I do not call to my recollection; there were a good many English persons.

Were there any of the nobility of the Court of Naples?—That I cannot positively recollect.

Did Lady Charlotte Lindsay dine there on that day?—She did.

Can your lordship recollect whether Mrs. Falconet was one of the party?—Whether she dined there on that specific day I do not recollect.

Besides dining with her Majesty at Naples, had you other opportunities of seeing her?—Only once, the morning of my arrival.

After leaving Rome, where did your lordship next see her Majesty?—At Civita Vecchia.

Did not her Majesty embark at Civita Vecchia to go to Genoa?—She did.

How long had she staid there before she embarked?—Five or six days; a short time; I think it did not exceed a week.

Did your lordship and Lady Charlotte Lindsay form part of her party whilst she was at Civita Vecchia?—We dwelt in the same house with her Majesty.

And of course lived at table with her Majesty?—Every day, always.

During that time were any other persons invited, during the stay at Civita Vecchia?—The persons invited were, the master of the house, the Marchese Mansi, one day, and the other persons of the family.

Are those the persons whom your lordship has before enumerated as forming her Majesty's suite when at Naples?—No, with the exception of Doctor Holland; Doctor Holland was there, the other persons were not there.

Was Mrs. Falconet there?—She was there.

Had Mrs. Falconet any daughters?—She had two daughters.

Of what age might those daughters be?—The eldest was a young lady, I suppose of fifteen or sixteen, and the other was younger.

Does your lordship know who Mrs. Falconet was?—I had known Mrs. Falconet before that time in England, she was either an English woman or an American, I believe an American by birth.

In what situation of life was Mrs. Falconet?—She was before in a very reputable situation, and was married to Mr. Falconet a banker at Naples.

Is he a person in a considerable line of business?—Very considerable.

Does your lordship know, whether she was a person who associated with the first ranks in that country?—As far as persons in her situation associated with the principal people, I believe she did; I had not been then acquainted with her for a great while, but I have every reason to believe she did.

Does your lordship know, whether Mrs. Falconet was received among the first ranks of English in that country;—I cannot speak particularly to that, not having seen her for some time before.

Does your lordship know, whether one of the daughters of Mrs. Falconet afterwards married an Italian of considerable station in society?—I believe she has two daughters married, as far as I understand; one of them I have seen, who is married to an American gentleman of the name of Middleton, and the other, as I have heard, to Monsieur Pourtalè's.

Do you mean Mr. Portallis a considerable banker and proprietor in Switzerland?—That I really do not know, I have heard his name, but never saw him.

Are those two ladies whom you have mentioned the same two daughters you met at Civita Vecchia, or other two?—No, other two daughters; I believe both those ladies were married at that time.

Did the two unmarried daughters whom you met there dine at the table with her Majesty?—They did.

When her Majesty embarked, it was on board the Clorinde, was it not?—It was.

Did your lordship embark with her?—I did.

And Lady Charlotte Lindsay?—And Lady Charlotte Lindsay.

Who else embarked in the suite of her Majesty?—Madame Falconet did, and her two daughters, and Dr. Holland.

Where did your lordship and Lady Charlotte Lindsay disembark?—We disembarked at Leghorn.

From that time there was a considerable interval before your lord-

hip met her Majesty again?—There was a very considerable time that summer; I did not see her Majesty again till the month of November in the year 1815.

Where was it that your lordship then saw her?—At the Villa d'Este, her house on the Lake of Como.

Was your lordship accompanied at that time by Lady Charlotte Lindsay?—No, I was not; I saw her first on the Lake of Como, in paying my respects to her at her villa.

Where was Lady Charlotte Lindsay at that time?—In England.

Did your lordship dine there upon that occasion?—I did.

At that time was Bergami sitting at the table of her Majesty?—He was.

Had you ever seen him before sitting at her Majesty's table?—Never.

Did your lordship stay longer upon that occasion than the day on which you dined there?—No, I went away that evening.

Where did your lordship go to?—I slept at the town of Como that night, and the next day I went to Milan.

Did your lordship afterwards, while you were in that country, pay her Majesty a second visit?—I did; the Sunday following I dined with her Majesty at Milan.

When you were there the first time, had you intended to pay a longer visit to her Majesty than the dining with her?—I do not recollect that I had. I had no particular intention. I was at the time travelling, and only intended to pay my respects to her Majesty. I do not charge my memory that I had any intention of staying longer.

Your lordship is understood to have stated that you dined there the Sunday following?—The Sunday following at Milan: when I saw her Majesty on the Lake of Como, her Majesty invited me to dine with her the following Sunday at Milan.

Was Bergami at the table that second time?—He was.

Has your lordship seen her Majesty since that time?—I have not.

The Lord-Chancellor said, that before he asked the Attorney-General to proceed with any questions, he had to apologize to the House for not informing them, when the noble earl was sworn, that it was usual when a peer was sworn, to receive their lordships' permission to dispense with having the questions put through their speaker, and to suggest to them to adopt the more convenient course of their being put by counsel in the usual course. He had to beg their lordships' pardon for not formally putting the question, that they should dispense with the strict form.

The Attorney-General then proceeded to cross-examine the Earl of Guilford.

You have stated that while your lordship was at Naples, Bergami was in the situation of a courier; did it happen when your lordship dined with her Majesty either at Naples or at Civita Vecchia, or on board the Clorinde, that he waited at table?—At Civita Vecchia he certainly did; I do not remember whether he did at Naples.

Did he so on board the Clorinde?—I really do not recollect whether he did on board the Clorinde, I cannot positively charge my memory with that circumstance; *I remember* it well at Civita Vecchia, and I *rather think he did on board the Clorinde.*

Did Lady Charlotte Lindsay hold at that time any situation in her Majesty's suite?—She was lady of the bed-chamber to her Majesty, then her Royal Highness.

When did she quit that situation?—She quitted that situation to the best of my recollection, for I was then out of England, in the beginning of the year 1817; about the month of May, I think, in the year 1817.

Although you say she quitted the situation in 1817, she was not actually in her Majesty's suite after she left her in Italy?—After she left her at Leghorn, to the best of my knowledge, my sister never joined her Majesty.

When you visited her Majesty at the Villa d'Este, was there any lady in attendance upon her at that time?—There was an Italian lady, who I understood was the Countess Oldi.

In the course of dining with her Majesty at the Villa d'Este, did you occasionally converse with that lady?—Very little, I had some conversation.

From your conversation with her, did she speak the Patois or the pure Italian?—She spoke, to the best of my recollection, a very good intelligible Italian, with rather an accent of the Lombardy, but not very remarkable; we had no very long conversation.

When you visited her Majesty at the Villa d'Este, did you see her grounds?—I did.

Do you remember whether you had a Greek or an Albanian servant with your lordship at that time?—I had a Greek servant with me at the time.

Did her Majesty accompany you into the grounds?—Her Majesty first showed me great part of her gardens, and afterwards lent me her donkey to ride upon to see the rest.

Does your lordship recollect in what part of your tour round the gardens it was that you mounted the donkey?—I mounted it I think very near the door, I went afterwards round the olive yard and other places in the grounds.

In going round the grounds, or at the time of coming out, did your lordship see her Royal Highness in the grounds?—While I walked with her Royal Highness I saw her, but I do not recollect to have seen her walking about the grounds after that.

Do you recollect seeing your servant walking about the grounds?—I do not remember to have seen him, though I might have seen him walking about the grounds.

Does your lordship remember whether you did see him walking about the grounds?—No, it is a thing I have not charged my memory with.

Your lordship never stated you saw your servant in those grounds?—Not that I saw him in the grounds, I heard that he had walked round them.

Do you recollect having stated that you had seen him in any part of those grounds with her Royal Highness?—Not with her Royal Highness, certainly; I might have seen him with her Royal Highness; I did not take notice of his being walking with her Royal Highness; there were people walking about in the grounds and in the gardens.

Will your lordship have the goodness to recollect whether you did not see him walking in the gardens with her Royal Highness?—I do not remember that I did.

Or going any where?—Nor going any where; I do not recollect the *circumstance.*

Does your lordship remember a summer-house or grotto?—I remember perfectly her Royal Highness showing it me.

Does your lordship recollect seeing her Royal Highness with your servant near that grotto?—No, certainly not.

Has your lordship never stated that you saw her Royal Highness?—I never stated that I had seen him with her Royal Highness, that I had seen him with her in the grotto, certainly not.

Nor in the grounds?—She might have been walking with him, but I do not recollect having seen it, or having stated it.

Is your lordship to be understood to state, that you do not now remember whether the circumstance took place or not?—Certainly.

That it might have taken place, but you do not recollect it?—It might have taken place, but I do not recollect it.

That your lordship might have seen it, but you do not recollect it?—They might have been in the garden, but I do not recollect it striking me as any thing remarkable.

Then if it did not strike your lordship as any thing remarkable, it is not likely your lordship should so state that to any one?—Certainly.

Will your lordship undertake to say you never have stated that?—I can undertake to say I never have said I had seen them together in the grotto.

Or on that day?—On that day certainly I have no recollection of it; I do not mean to say I did not see them in the garden, but I not recollect it.

Had your lordship been accustomed to ride at that time?—I had not been a great rider, but at that time I only rode upon a donkey.

Who requested your lordship to ride upon the donkey?—The Princess of Wales.

Did she urge your lordship to ride round the grounds on the donkey?—She certainly did.

Where was your lordship's servant at that time?—In the house I believe, or in the grounds; he went with me to the house I recollect perfectly, and was there walking about, I do not know whereabout he was in the grounds; I know he was at the place.

How long did that servant remain with your lordship afterwards?—He remained till the year 1817; he left me at Venice in the month of May, 1817.

Previous to your sister, Lady Charlotte Lindsay, quitting the situation with her Royal Highness, had your lordship any conversation with her upon that subject?—I had correspondence with her.

Did you recommend to Lady Charlotte Lindsay the propriety of resigning the situation which she held about the person of her Royal Highness?—I did advise her to resign it.

What were the considerations which induced you to give that advice?

Mr. Brougham here desired to remind their lordships that this was a question addressed to points on which he had been restrained from entering.

The Lord-Chancellor agreed with the learned counsel, that the examination was taking an irregular course, and it might indeed be advisable to expunge the preceding question and answer.

Mr. Gurney was then directed to obliterate the passage from his *notes*.

Re-examined by *Mr. Tindal.*—Can your lordship recollect what the size of this garden was?—It was a formal Italian garden, of what size I cannot now precisely recollect.

Your lordship cannot recollect the number of acres within a few?—No, I cannot; it was a handsome fair garden.

At the different times, whenever your lordship has seen her Royal Highness and Bergami together, have you ever observed any impropriety of conduct on the part of her Royal Highness?

The Attorney-General submitted that this did not arise out of the cross-examination.

The Lord-Chancellor was of opinion, that if the question was admitted, it would necessarily let in the other side to a right of inquiring further on the subject.

Mr. Brougham assured their lordships that he should not object, if such was their pleasure, to the withdrawing of the question.

Examined by the Lords.

Lord Ross.—When you saw her Royal Highness on the Lake of Como, was any body with her?—Yes, Bergami.

Was any other person with her in the boat?—No.

Earl Grey.—At any time when you have been at her Royal Highness's, and Bergami was in company, have you ever seen any improper familiarity between them?—No, certainly none.

Your lordship has stated that in the Countess Oldi's language there was a slight accent of Lombardy, but nothing very remarkable?—Nothing very remarkable; we conversed together, and what she answered was perfectly good Italian, but with an accent.

What observation did your lordship make upon her manners?—That her manners were perfectly inoffensive, that there was nothing remarkable about them, very modest, not particularly vulgar.

Nothing you would denominate as vulgar?—Not as vulgar, certainly not; the exact shade of vulgarity I cannot now charge my memory with; I do not remember having considered her as vulgar in her conversation with me, not the least; I do not remember that the impression upon my mind was that of having conversed with a vulgar woman.

Did you observe any particular difference between the manners of the Countess Oldi and other Italian ladies?—I cannot say that I did; she did not strike me as being a woman of remarkably fascinating manners, remarkably refined, but I did not see any great difference between her and other Italian ladies.

The Earl of Liverpool.—Were her manners and conversation, the manners and conversation of a person who had been well educated, and who had lived in good society?—Upon that subject I really knew her so little, I only conversed with her a very few words during the dinner, and I could not form any opinion of that sort as to the extent of her education; our conversation was extremely short, and there was nothing at all remarkable in the conversation.

How often did you meet Countess Oldi?—Only twice; once at the Villa d'Este, and the other time at Milan.

Did you at that time know that she was the sister of Bergami?—To my certain knowledge, no; I heard she was the sister of Bergami, I heard it I think before I was at Como, but I certainly heard it before *I was at Milan.*

Lord Erskine.—Did not your lordship state, I observed nothing vulgar in her conversation, not the least?—My conversation with her was very short, I was not struck with any thing vulgar.

The Earl of Lauderdale.—When your lordship dined with her Royal Highness at Como, did you sit next her Royal Highness?—I did.

Where did Bergami sit?—On the other side of her Royal Highness.

When your lordship dined at Milan with her Royal Highness, where did you then sit?—I sat by her Royal Highness's side.

Where did Bergami sit?—He sat on the other side.

Did he, during the time of dinner, receive any attentions from her Royal Highness?—No particular attentions, certainly.

Did your lordship?—Her Royal Highness was exceedingly gracious to me, and conversed with me.

Did you observe how she conducted herself in relation to Bergami?—I perceived nothing particular in her Royal Highness's manner to Bergami, at either of those interviews.

Where did Countess Oldi sit?—She sat on the other side of me at Como; I believe she did at Milan, but I cannot speak with certainty.

Who was at table besides those you have mentioned?—Lieutenant Hownam, William Austin, and an Italian gentleman, as I understood a medical man, who they said had been at Pavia, that he had been employed there.

Was it the same company at Como and at Milan?—It was, to the best of my recollection.

Lord Kenyon.—What was the size of the boat in which the Princess and Bergami were on the Lake of Como?—A very small one, a small boat.

Did your lordship observe the boat more when you were approaching it?—No, when we approached the boat, after her Royal Highness had spoken to me, Bergami rowed it to the shore.

At what distance was that boat from the shore when you saw it?—I cannot tell; not at any great distance; my boat and that of her Royal Highness came to the shore together. I was in another boat on the lake.

When your lordship saw the boat move, was it in consequence of Bergami rowing the boat?—Certainly.

Earl Bathurst.—Did her Royal Highness introduce you to Bergami?—She said, pointing to him, "Voici Monsieur Bergami."

Did she, either at Como or at Milan, give you any reason for having advanced him to the situation he then held?—No, she did not.

Did she introduce the Countess of Oldi to you?—She did.

Did she introduce Countess Oldi to your lordship as the sister of Bergami?—No, I am pretty sure she did not; I should have remarked it if she had.

The Earl of Darlington.—What was the deportment of Bergami towards her Royal Highness?—Nothing particular; very respectful.

Was the ground or garden your lordship alludes to, that immediately adjoining the Villa d'Este?—The garden in which her Royal Highness walked with me, was directly behind the house; the vineyards through which I rode were immediately adjoining to that garden.

Your lordship observed, you did not recollect the exact size of that garden?—I do not.

Was it more than one acre of ground?—I really cannot give any opinion upon its size, I should think it was more; there was a large Italian regular garden.

Lord Belmore.—Did your sister, Lady Charlotte Lindsay, leave the Princess of Wales's service of her own accord, or was she dismissed?—She left it of her own accord.

Did your lordship recommend to her to do so?—I did.

What were the reasons or motives which induced your lordship to make that recommendation?

Mr. Brougham objected to this question as one which counsel had been restrained from putting.

The Earl of Liverpool said it ought to be understood that every peer was in the situation of a judge, and was entitled to put any question that was not in itself illegal.

The Marquis of Lansdown observed that they were all undoubtedly in the situation of judges, but it behoved them to act concurrently, and to render their proceedings as similar as possible to those over which a single judge presided.

Lord Belmore was of opinion that the question he had put was one of considerable importance as regarding the merits of the case, but he was perfectly ready to withdraw it, if, in their lordships' judgment, it appeared irregular.

Lord Ellenborough.—Did your lordship make any particular observation on the manners of Bergami?—The observations I made on the manners of Bergami were, that they were perfectly unobtrusive, that he was not forward; that was the only observation I made. I have been asked whether I had a Greek servant in the garden behind the house, to the best of my recollection I had; and that I mentioned the having a Greek servant to her Royal Highness; but more than that I do not recollect. She observed his dress, but as to having seen them walking together, I have no remembrance of the circumstance. I have, upon this subject, but a very imperfect recollection, but I think I did mention him, in walking in the garden, as a Greek servant, observing that I had him from Athens; he was in the dress of the country.

Had your lordship any conversation with Bergami?—No particular conversation: Bergami spoke but little while I was there; and I think the only time when I was ever in a room alone with Bergami was in the gallery of the house at Milan, when he showed me some pictures; but I do not remember any particular conversation.

From the opportunities your lordship had of observing the behaviour of Bergami, could you form any opinion of his being superior to the situation in which he had formerly lived?—No, it did not strike me that he was.

This question and the answer were read at the request of *Mr. Denman* to his lordship, and he stated that the answer was correct.

The Right Hon. LORD GLENBERVIE was next called, and sworn by the *Lord-Chancellor* at the table, and examined by *Mr. Wilde* as follows:—

Did your lordship see her present Majesty at the time she was Princess of Wales at any time at Genoa?—I did.

Were you at that time accompanied by Lady Glenbervie?—I was.

Did her ladyship for any period form any part of the suite of her Royal Highness?—No, not at that time.

Did her ladyship, at any time during the period your lordship was at Genoa, attend in the suite of her Royal Highness?—She did.

In what way?—When her Royal Highness arrived at Genoa, Lady Glenbervie and I were there; Lady Glenbervie was not in her service at that time, but Lady Charlotte Campbell was expected from Nice; the frigate that brought the Princess was sent on immediately to Nice, to fetch Lady Charlotte Campbell; Lady Glenbervie having been formerly one of the ladies of the bed-chamber to the Princess, finding herself at Genoa, proposed to the Princess, who had none of her ladies with her then, to attend her till the arrival of Lady Charlotte Campbell.

Did your lordship, during the time that Lady Glenbervie was in attendance upon the Princess of Wales, dine at the table of her Royal Highness?—Frequently.

For what period?—Her Royal Highness arrived, I think, on the 26th of March; Lady Glenbervie and I continued there till the 17th of May; the Princess did not leave Genoa, I think, till the day after we did, which would be the 18th; during that period I very frequently dined with the Princess, but not every day.

Did your lordship during that time see a person of the name of Bergami?—I saw him every day that I dined there.

What was the conduct which your lordship observed in her Royal Highness during that period towards Bergami?—Bergami waited behind her Royal Highness's back, in the habit of a courier; it happened to me often to have the honour of sitting next her, and all that I saw was the behaviour of any mistresss of her rank to her servant waiting behind her; he often helped her and me to wine and to other things.

What was the conduct observed by Bergami towards her Royal Highness?—That of a servant.

Was it respectful, becoming his then situation, or otherwise?—I did not pay any particular attention, but if there had been any thing like disrespect I must have observed it.

Has your lordship mentioned the year?—This was in the year 1815.

What company did your lordship meet at her Royal Highness's table during that period?—Mrs. Falconet and her two daughters, and Mr. Hownam a lieutenant in the navy, Lady Charlotte Campbell after she arrived, which was some days, about a week perhaps after the Princess arrived, Dr. Holland also most days, I am not sure he did not all, and also some Genoese noblemen, one I particularly recollect, the Marchese John Carlo Negri, and some English gentlemen, I think some officers of the navy, indeed I am sure the captain of the frigate that brought the Princess.

Did your lordship see Lady William Bentinck there?—I saw her at Genoa.

At her Royal Highness's?—Yes, I think I did, at a ball, and I believe at a party; whether she dined there or not I cannot state.

Can your lordship recollect attending any of the balls given by her Royal Highness?—The only ball I recollect, I was at.

Did your lordship meet there the persons of rank of the place?—All the society I was in the habit of meeting, the principal ladies and gentlemen of the place.

Cross-examined by *the Solicitor-General*.—Your lordship did not *live in the house?—I did not live in* the house, nor Lady Glenbervie.

When Lady Charlotte Campbell arrived, which was after the interval of a week, Lady Glenbervie ceased to act in the situation she had before occupied?—Yes, she did; but she was often there at dinner.

How many times, on an average, might your lordship have dined there; two or three times in a week, or how often?—Yes, two or three times, or more.

Is your lordship to be understood to state that Bergami at that time appeared in the dress of a servant?—A fancy dress, the dress of a courier according to my recollection.

Lord Lauderdale.—Did your lordship meet Captain Pechell of the Clorinde at Dinner at the Princess's?—I think I did.

His lordship then withdrew.

LADY CHARLOTTE LINDSAY was next called in, and having been sworn, was examined by *Dr. Lushington.*

Did you ever form a part of the suite of her Royal Highness the Princess of Wales?—Yes, I did.

When did you first enter her Royal Highness's service?—I first entered her Royal Highness's service, I think, but I cannot be entirely certain, in the year 1808.

Did your ladyship attend her Royal Highness when she went abroad in 1814?—I did.

Was not your ladyship one of the ladies of the bed-chamber?—I was.

How far did you go with the Princess of Wales upon that journey?—I accompanied her Royal Highness as far as Brunswick.

Why did your ladyship not go further?—It never was understood by her Royal Highness nor by me that I was to go further than merely to accompany her to Brunswick.

When did your ladyship again see her Royal Highness?—I saw her Royal Highness at Naples in the beginning of March 1815.

Did you then act as lady of the bed-chamber to her Royal Highness?—I did.

How long then did you continue with her Royal Highness?—I joined her Royal Highness the beginning of March, remained with her Royal Highness as long as she staid at Naples, left Naples with her Royal Highness, accompanied her to Rome, from thence to Civita Vecchia, then embarked with her on board the Clorinde, and quitted her at Leghorn, which was an arrangement that had been settled before we had met.

By whom was her Royal Highness visited while she was at Naples?—She was visited by all the English of distinction there, and by the Neapolitans of distinction, and other foreigners.

Would your ladyship be pleased to state the names of some of those?—Lord and Lady Llandaff, Lord and Lady Gage, Lord and Lady Conyngham, Lord and Lady Holland, and, I believe, various others; Lord Clare, Lord Granville Somerset, Lord Frederick Montague, Lord and Lady Oxford, and many young Englishmen; Mr. Fazakerly, Mr. Davenport, Mr. William Bankes, Sir Humphrey and Lady Davy; there may be many others that I have forgotten.

Was her Royal Highness visited by Mrs. Falconet?—She was.

And her daughter?—And her daughter.

Was your ladyship on board the Clorinde with her Royal Highness?—I was.

Does your ladyship remember where her Royal Highness slept?—*On board* the Clorinde her Royal Highness slept in a part of the *captain's cabin; it was* divided into two, her Royal Highness slept in

one half, and the captain and his brother in the other half, with a partition between.

Did any one sleep in that division of the cabin in which her Royal Highness slept?—Yes, her maid.

Does your ladyship recollect any thing arising in consequence of the cabin being divided into two parts?—I recollect no particular, except that her Royal Highness rather expressed her surprise, that the other half of the cabin had not been appropriated to my use, instead of the captain and his brother continuing to occupy it.

Did that occasion any difference between her Royal Highness and the captain?—No, I did not observe any difference upon the subject of it; it was merely a remark she made to me.

Does your ladyship remember a person of the name of Bergami being in the service of her Royal Highness?—I do.

In what capacity?—As courier.

Had your ladyship opportunities of seeing what passed between her Royal Highness and Bergami?—I was often in company with her Royal Highness when Bergami was attending.

How did he conduct himself?—Just in the common way that a person in his situation would naturally conduct himself.

How did her Royal Highness conduct herself towards him?—In the same manner that a mistress would conduct herself towards a servant.

Did your ladyship ever observe any impropriety of conduct between the Princess of Wales and Bergami?—Never.

When did your ladyship quit her Royal Highness's service?—I sent in my resignation in the year 1817.

What was your ladyship's reason for resigning?—My brother wrote to me, requesting me to resign, and I complied with his request.

Has your ladyship seen her Royal Highness since she has returned to this country?—I have.

Cross-examined by the *Solicitor-General*.—How long was it before her Royal Highness quitted Naples that you joined her?—I should think about twelve days, ten or twelve days.

How much time was so occupied in proceeding from Naples to Leghorn?—We slept one night in going to Rome, staid two nights at Rome, I think we were six nights at Civita Vecchia, waiting for the frigate, and three nights on board the frigate.

Your ladyship is understood to have then left Leghorn, and not to have returned again into the service of her Royal Highness?—I did not resign at that time.

You did not enter after that into the actual service of her Royal Highness?—I left Leghorn for the purpose of having my brother to escort me home to England.

During the time you were at Civita Vecchia did you see Bergami?—I did every day.

Try and recollect with accuracy, whether you did not see him at Civita Vecchia, walking with her Royal Highness?—Her Royal Highness and I frequently walked out together, and Bergami attended; he did not walk with us, but he walked a little way behind, a short distance behind.

Did that happen every time you walked out?—Every time as far as I can recollect.

Was there any other courier in the service of her Royal Highness at that time?—I believe Hieronimus was also a courier, but I cannot be entirely certain; *he was with us.*

Does your ladyship mean to say, by saying that Hieronimus was with you, that he walked out with you?—No, I do not recollect that he walked out.

Have you the least doubt that he did not walk out with you?—I do not think that I had the honour of walking out above twice with her Royal Highness; I walked out with her every time she walked.

Your ladyship was understood before to say, that you walked out several times with her Royal Highness?—I might have walked out with her three times perhaps, but I do not at this moment call to mind above twice that we walked; but I cannot positively swear that we might not have walked out three or four times.

Perhaps your ladyship will swear that you did not walk five or six times?—Yes, I can swear that.

You will not undertake to say that you did not walk out four?—No, but I think not.

But every time you did walk out, the courier who accompanied you then was Bergami?—Yes.

Will your ladyship take upon yourself to swear, that upon no one of those occasions her Royal Highness walked arm in arm with Bergami?—I have not any recollection of her walking arm in arm with Bergami.

Will your ladyship take upon yourself to swear she did not?—I have no recollection of it; as far as I can recollect, Bergami attended us at a little distance, unless he was called to be asked a question.

Your ladyship is to be understood, that you will not swear that her Royal Highness did not walk, upon that occasion, arm in arm with Bergami?—I certainly do not recollect that she ever did walk arm in arm with Bergami.

But you will not swear that she did not?—I cannot positively swear, but I never was struck with it.

If such a thing had happened, must it not have struck your ladyship?—I suppose it would have struck me; and therefore I imagine it did not happen.

But you will not swear it did not happen?—I will not swear, because she might have taken his arm upon some particular occasion; not that I recollect that she did, but it might have happened without my being struck with any thing extraordinary.

Your ladyship was understood to state, that if she had taken his arm it would have struck you as something extraordinary?—If they had walked arm in arm, but she might have taken his arm.

But you think she might have taken his arm, though they did not walk arm in arm?—She might have taken his arm, but I have no recollection of the circumstance.

Your ladyship filled the office of lady of the bed-chamber?—I did.

That office did not necessarily lead you into her Royal Highness's bed-room?—Very frequently it did; her Royal Highness sent for me very frequently.

At Naples?—At Naples.

Was her Royal Highness always alone upon those occasions?—Not always alone, certainly; sometimes there were persons with her.

Do you recollect ever upon any of those occasions seeing Bergami in the bed-room?—I saw him myself in the bed-room, for we used to dine in the bed-room. I dined in the bed-room with the Princess and William Austin, and Bergami used to wait upon us as a servant.

Was that during the time you were at Naples?—During the time I *was at Naples.*

Did any other person except William Austin and yourself and her Royal Highness dine upon those occasions in the bed-room?—No, I think nobody but we three dined; but other servants used to bring in dishes.

Did that happen frequently while her Royal Highness was at Naples, during the time you were with her?—Yes, that happened whenever her Royal Highness had not company to dinner, and excepting one day when I went to Pompei, and her Royal Highness gave me leave of absence the whole day.

Upon those occasions did Bergami always wait?—I think he did, but I cannot positively swear.

When was it that your ladyship quitted the service of her Royal Highness?—In the year 1817.

Had any application been made to your ladyship to join her Royal Highness in Germany, before you took the resolution of quitting?—Yes, there had.

How long before?—I cannot accurately remember how long before.

Was any proposition made about appointing Colonel Lindsay to the situation of chamberlain to her Royal Highness?

Mr. Brougham objected to this question. His objection was only that which his learned friends had so often urged—that if the proposition were made in writing, no questions could be put regarding its contents.

The Lord-Chancellor was inclined to think that the question might be put, if it arose out of the examination-in-chief.

The question was repeated, and *Mr. Brougham* again urged his objection.

The Lord-Chancellor said, that if the objection were taken, it must be argued, and as 4 o'clock had arrived, it might be proper to adjourn it till to-morrow.

Mr. Brougham.—I am willing to concede any thing rather than delay your lordships.

The Lord-Chancellor added, that the House ought not to consider merely what counsel would concede, but what ought to be conceded; if the question were illegal, the House ought not to allow it to be put, even if counsel did not object. He thought that it would be fit to adjourn, that the point might be duly considered.

The House accordingly adjourned at 4 o'clock.

FOURTH DAY.—October 6.

After 10 o'clock prayers were read, and the House was called over. Several peers, among whom was the Duke of York, were excused for non-attendance on account of indisposition.

Business commenced by calling *Mr. Joseph Marrietti* to the bar. He was examined by the *Marquis of Lansdown.*

Have you the letter from Mr. Albertonio you were yesterday desired to bring?—Yes.

You will deliver it into the House?—It is torn in two, because only a part of the letter was to me. The other half was to another person.

The letter was given in.

M. Marrietti begged to inform their lordships that he had made a mistake yesterday with respect to the manner in which he had received the letters dated the 16th of September. That letter did not come by the post, as he had supposed. He received it by a private hand.

Having made this explanation M. Marrietti withdrew, counsel were called in, and the Right Hon. *Lady Charlotte Lindsay* was again called in, and further cross-examined by the *Solicitor-General.*

Is there a garden in the neighbourhood of Naples called La Favorita?—Yes, there is.

Did your ladyship ever walk in that garden with her Royal Highness?—Yes, I did one day.

Was Bergami also present at that time?—He was.

Did your ladyship, in going from Naples to Rome, travel in the same carriage with her Royal Highness?—I did.

Did Bergami ride as courier during that journey?—He did.

Did your ladyship also go in the same carriage in the journey from Rome, after your ladyship left Rome?—From Rome to Civita Vecchia. Yes, I did.

Did Bergami also ride as courier during that part of the journey?—I believe he did, but I have not so accurate a recollection of it as of the former part.

Does your ladyship recollect, upon the former part of the journey, Bergami coming up to the window of the carriage, and addressing her Royal Highness, saying "à boire Madame"?—I perfectly recollect his coming up to the carriage, but it was after he was called; we had provisions in the carriage, and her Royal Highness gave him some of the provisions out of the carriage, and something to drink.

Has your ladyship any distinct recollection that it was after he was called?—I think it certainly was after he was called.

Is there any circumstance that enables your ladyship to pronounce with certainty as to that?—No, but merely because it was more natural that he should not come till he was called to have some provisions given to him.

Then your ladyship has no recollection either the one way or the other, as to that circumstance, but it is a mere inference from reasoning in your own mind?—It is; there was nothing struck me as particular in the circumstance.

Was there any bottle in the carriage, which her Royal Highness handed to him?—There was a bottle of wine.

Did he drink from that bottle?—I think he did.

From the bottle itself without any glass?—Yes, I think so.

Did he afterwards return that bottle to her Royal Highness?—I cannot be quite positive, but I fancy he returned the bottle, but I cannot be by any means positive as to that; her Royal Highness and *I had taken* our refreshment before he was helped, and whether he re-

turned the bottle to the carriage or not, or whether he threw the bottle away, I cannot be certain.

Although your ladyship is not certain, to the best of your recollection which way was it, did he return the bottle or throw it away?—I rather think that he returned the bottle to the carriage.

After your ladyship had made up your mind to quit the service of her Royal Highness, did you not state that it was a vast relief to your mind having come to the resolution of quitting her Royal Highness?—I have no distinct recollection of having stated that.

When your ladyship says you have no distinct recollection of having stated that, do you remember having stated any thing to that purpose or effect?—No, I might have said that it was, but I do not know that I ever did.

Did not your ladyship, after you had come to the determination of quitting her Royal Highness's service, say that it was a vast relief to your mind, having come to the resolution of quitting the service of her Royal Highness, and that you then considered that no woman with any regard to her character could remain in the service of her Royal Highness?—I certainly do not recollect ever having stated any such thing in such words.

Does your ladyship recollect having stated any thing to that effect?—No.

Will your ladyship undertake to say, that you did not state the very words now made use of?—I have no recollection of having stated any such words.

Your ladyship will not undertake to say you did not make use of those very words?—I can say that I did not make use of those very words; I have no recollection of having made use of any such words.

Your ladyship had before said you had no recollection of having made use of such words, and the question then proposed was, whether you would undertake to say that you had not made use of such words?—I can only say I think it extremely improbable that I should have made use of such words; and I do not recollect that I did.

Your ladyship is to be understood to say you will not undertake to say that you did not make use of those words?—I can only say that I have no recollection of that; I think it very improbable.

Will your ladyship undertake to say that you did not make use of words to that effect more than once?—I have no recollection of having made use of words to that effect.

But your ladyship will not undertake to say that you did not make use of those expressions more than once?—I can only answer as I did before, that I have no recollection, and I do not think it probable.

Did not your ladyship say, upon quitting the service of her Royal Highness, that if it had not been for an anxious desire to assist a particular individual out of the savings in that service, you would have quitted the service long before?—I think it is very possible I might have made use of those words; I do not distinctly recollect that I did, but I think it is possible.

Having recalled this little circumstance to the recollection of your ladyship, did not the former conversation, to which allusion has been made, pass at the same time?—I have no distinct recollection at what time I might have said I was induced to remain, from the wish of assisting that individual from my salary; I have no distinct recollection when I said that, and I certainly do not think it was coupled with any words expressive of an *ill opinion of the* Princess.

Is your ladyship to be understood that it was not so, or that you merely think it was not so, coupled with such terms?—As far as I can recollect, it was not so.

But your ladyship will not be positive?—I can only say that I have no kind of recollection of it, and that I do think it not at all probable.

Still your ladyship is understood that you will not say positively that it was not so?—I have no kind of recollection of ever having stated that my resignation was on account of what you mention, that no woman of character could remain.

Your ladyship will perceive that is not an answer to the question put, whether your ladyship will say positively that it was not so?—I can only say I have not the least recollection that I said so to any body.

Your ladyship, in answer to a question put on the examination-in-chief, stated, that some communication had been made by Lord Guilford; was the conversation to which your ladyship has spoken, and which your ladyship recollects, after that communication from Lord Guilford?—I have not the least recollection whether it was before or after.

Does your ladyship recollect, whether or not it was about the same time?—No, I do not recollect any thing about the period at which the conversation you allude to might have taken place.

Was it after your ladyship had actually resigned?—I do not know.

Are there no circumstances to bring that fact to your recollection?—Yes, I think that what I said about having continued in the service, in order that my salary might help a certain individual, must have taken place after the communication made me by my brother.

Re-examined by *Dr. Lushington.*—You have been asked as to communications which took place verbally, upon the subject of your ladyship's resignation; to whom was that communication made?—To my husband.

To any one else?—To no one else.

Is Mr. Lindsay a person in distressed circumstances?—He is.

Has he been so for a considerable period of time?—For some years.

Had your ladyship ever any difficulty, whilst in the Princess's service, with respect to the payment of your salary?

The Solicitor-General objected to this question. He could not conceive how by any possibility such a question could arise out of his cross-examination.

Mr. Brougham said, he would show how it came out of the cross-examination. But their lordships perhaps anticipated what he was about to say. Some questions had been put in the course of the cross-examination on the subject of the anxiety to remain in the service of her Royal Highness on account of certain embarrassments. It was the object of his learned friend to show what those embarrassments were.

Dr. Lushington thought it was perfectly clear he had a right to put the question. Their lordships would recollect that a great part of the cross-examination of the Solicitor-General had reference to the circumstance of Lady Charlotte Lindsay having quitted the service of her Royal

Highness, and that the examination was framed with a view of showing that the reasons of Lady Charlotte for resigning were such as affected the honour and dignity of her Majesty's reputation. He must then contend that he had a right to put questions, with a view of rebutting that cross-examination.

The Earl of Lauderdale rose, and observed that it was proper that the witness should, in conformity with the orders of the House, withdraw while this point was discussing.

The witness withdrew.

The Solicitor-General, being now informed of the view with which the question had been put, had no longer any objection to the course of the examination.

The witness was again called in, and the question was put.

Yes, at one time there was a good deal of arrear due.

Did any other circumstances occur in the year 1817 to render your ladyship's continuing in that situation disagreeable to you?—Yes, it would have been particularly disagreeable if my attendance had been required at that time, because I was under considerable depression of spirits.

Had your ladyship at that time lost a near relation?—I had lost two.

Was it not the late Lord Guilford, and the late Lady Glenbervie?—Yes, it was.

Did you yourself observe any thing in the conduct of her Royal Highness, any impropriety, to induce you to quit her service?—I myself never observed any improprieties in the conduct of her Royal Highness to induce me to quit her service.

The Earl of Donoughmore.—You have mentioned that you joined the Princess of Wales ten or twelve days previous to her leaving Naples?—I did say so.

Your ladyship also said you were one night on your journey to Rome?—Yes, that is quite correct.

That you remained at Rome two days?—Two nights and one whole day.

At Civita Vecchia six days?—To the best of my recollection, six days.

And on board the Clorinde three?—I think three nights.

Making altogether twenty-four days?—Yes.

After your ladyship had quitted the frigate, you went one way and the Princess went another?—Yes, I went with my brother.

Therefore, the experience your ladyship has had of the conduct and deportment of the Queen, as Princess of Wales, extended over a period of twenty-four days only; that being the number of days mentioned in those enumerated by your ladyship?—Certainly, at that period.

Therefore the testimony of your ladyship, the opinion your ladyship is enabled to give of the conduct of her Majesty as Princess of Wales, extends over a period of twenty-four days only?—In Italy.

That is the part *of the conduct of* the Princess of Wales which you *are here to speak upon; it extends* over a period of twenty-four days

only; during that time you have said that you observed no impropriety on the part of her Royal Highness in her intercourse with Bergami?—During that time I observed no impropriety on the part of the Princess of Wales in her intercourse with Bergami.

What part of the English suite of the Princess of Wales was in her Royal Highness's service at the time of your ladyship joining her at Naples; was Sir William Gell?—Yes, Sir William Gell.

Did Sir William Gell remain in her Royal Highness's service when she quitted Naples, or had he left it?—Sir William Gell resigned before we left Naples, on account of his health not permitting him to travel to the north.

Was the Hon. Keppel Craven in her Royal Highness's service at the time of your joining her at Naples?—Yes, he was.

Did he remain in her service when she sailed from Naples?—No, he also resigned.

Was Captain Hesse in her Royal Highness's service at the time of your ladyship's joining her Royal Highness?—Captain Hesse was at Naples with her Royal Highness, but I am not certain whether he was in her service or not.

Did Captain Hesse embark with your ladyship and her Royal Highness on board the Clorinde?—No, he did not.

Then he had quitted the service, if he was in the service, as well as the other persons who have been mentioned?—Yes, he certainly did not accompany us when we left Naples.

At the time that all those persons had quitted the service of her Royal Highness, were you aware of any other persons having joined that service; was Bergami himself in the service?—I found him in her Royal Highness's service.

Did a sister of his, of the name of Faustina, join the service of her Royal Highness at that time at Naples?—Not that I am aware of.

Did you know that such a person was ever in the service?—I never heard till lately of such a person.

Louis Bergami, his brother, did your ladyship know any thing of his having joined her Royal Highness at Naples?—I am not quite certain, but I think I recollect a person of the name of Louis Bergami at Naples.

You do not know of his having been taken into her Royal Highness's service at Naples?—No, I cannot speak with certainty to it.

Did you know any thing of the mother of Bergami having entered into her Royal Highness's service at Naples?—No, I never heard of her till lately.

Did you know any thing of a child, of the name of Victorine, having been admitted under her Royal Highness's protection at Naples?—No, there certainly was no such child at the house at Naples when I was there.

In answer to a question just now asked, as to the reason you had for quitting her Royal Highness's service, you have said, that you had seen nothing improper in her conduct?—No, I had seen nothing improper in her Royal Highness's conduct.

Therefore there was nothing your ladyship had seen improper in her Royal Highness's service which was the cause of your quitting that service?—I had not seen any thing improper that was the cause of my quitting her service.

Was there any report?—(A general call of "Order, order.")

The Earl of Donoughmore.—I only ask the reason

which induced her ladyship to quit the service of the Princess of Wales.

Mr. Brougham objected to such a question being asked.

The Lord-Chancellor.—It is certainly competent for any noble lord to ask whether there was any other reason which induced her ladyship to quit her Royal Highness's service.

Mr. Brougham.—Reports of a very atrocious nature may have gone forth against her Majesty.

The Earl of Donoughmore.—Order, order. I ask only into the reason of quitting her Royal Highness's service.

The Lord-Chancellor.—No report of any kind can be evidence to your lordships.

The Earl of Donoughmore.—Had your ladyship any other reason for quitting her Royal Highness's service, of any sort or kind, which operated upon your ladyship's mind, excepting those which your ladyship has already mentioned?—I certainly had not seen any thing improper in her Royal Highness's conduct while I was in her service; but the reports were of so unpleasant and degrading a nature, that they did operate upon my mind in making me not wish to continue in her service.

The Earl of Donoughmore desired that the questions and answers should be read to the House, which was done accordingly, and his lordship then said, "I shall not trouble your ladyship with any more questions."

Lord Calthorpe.—During your acquaintance with her Royal Highness, had your ladyship observed in her a degree of familiarity towards her menial servants, both male and female, that is unusual in persons of such high distinction?—I certainly think that her Royal Highness was peculiarly affable and familiar in her manner to all her servants.

Does your ladyship think that that condescension greatly exceeded that which is usually shown among the higher classes in this country towards their inferiors?—I think the higher classes in this country are much more apt to be exceedingly kind and condescending to their servants than those perhaps of a rank beneath them, and I think that her Royal Highness's manners were very peculiarly so.

Does your ladyship think that those manners were peculiar even in a foreigner?—I am perhaps no very good judge in that case, but foreigners are I think more apt to converse with their servants than English people, they have less reserve; and I think that her Royal Highness had certainly that sort of familiarity that I have observed in foreigners in conversing with their servants.

Does your ladyship think that that familiarity greatly exceeded what you have generally seen shown by foreigners, from the opportunities that you have had of seeing foreign society?—No, not greatly.

When your ladyship said that you had not observed any impropriety in the conduct of her Royal Highness towards Bergami, or any impropriety in his conduct towards her; had you reference to that peculiarity of her behaviour to which you have adverted?—I had.

Is your ladyship then to be understood to say, that from the habit you were in of *seeing this unusual* degree of familiarity and freedom

in her Royal Highness's manners, circumstances might have passed unnoticed by you, which in a person of more habitual reserve than her Royal Highness, would have appeared to you extraordinary, and perhaps unbecoming?—I do not know that they would have appeared to me extraordinary and unbecoming, her Royal Highness appeared to me to talk to Bergami, as she used to do to Sicard, and various other persons in her family.

The Earl of Lauderdale.—Your ladyship has said that you quitted her Royal Highness's service, in consequence of a request from the Earl of Guilford, your brother; was that request communicated in writing?—It was.

Has your ladyship the letter in your possession, communicating that request?—No, I have not.

Mr. Brougham (while her ladyship was answering the question) submitted, whether it was proper to examine her ladyship respecting this letter.

The Lord-Chancellor said, the questions might be followed up by questions as to the letter existing in the possession of her ladyship.

The Earl of Lauderdale.—I wish the learned counsel would object when the question is made.

Can your ladyship say whether the difficulty of receiving your salary, was the ground upon which that request was made?—No, I do not think that that was the ground on which the request was made.

Mr. Brougham.—Now really this cannot be the regular mode of examining.

The Lord-Chancellor.—You must object, Mr. Brougham, when the question is asked.

Mr. Brougham.—But the question is answered so quickly, that it cannot be objected to before it is answered. Your lordships ruled, after much argument, that no questions could be asked respecting a letter which was not in evidence.

The Lord-Chancellor.—The examination might be proceeded in till it should appear whether the letter was in the possession of the witness or not.

Mr. Brougham.—But there is here no ground for such examination.

The Lord-Chancellor.—Do you know whether that letter is now in existence?—I believe not, I did not keep it.

Have you made any search for it?—No, I have not.

The Lord-Chancellor.—Perhaps your lordships will ask her ladyship to search and to attend again.

Mr. Brougham said, he had no objection to the production of any letter. His objection was to receiving evidence, or directing a search for evidence, in a letter written by any one, except a party to the case. This was a third party who had been examined yesterday, and

might or might not be examined respecting this letter, but of this he gave no opinion: but this letter was not written by her Majesty, but by another party, a stranger to this case. He objected to examination respecting a letter written by any party a stranger to the case.

The Lord-Chancellor apprehended that the clear law of this question was thus:—"He sent me a request;" that was established by the one side. The other side had a right to say that answer should not stand, or they must know what that request was. If it could not be proved that the letter which contained the request was lost, no question could be asked upon it; and unless a search was made, and the letter was shown to be lost, their lordships could not get at the *data* upon which the request was made.

Lord Erskine said the noble lady had given her evidence with the greatest candour and fairness. She had stated that she saw nothing in the behaviour of the Princess of Wales towards Bergami, which appeared improper; but that reports had operated upon her mind, which reports were negatived by her own observation. Suppose the letter were to the very effect of stating what had been stated by her ladyship, it must be wholly immaterial. But he would wait till it appeared whether the letter was found or not, before he should make his objection.

The Earl of Liverpool said, he would give no opinion whether the letter, when found, could and ought to be produced; but the very first thing to be ascertained was, whether the letter was in the possession of her ladyship.

Earl Grey said, that if it was immaterial whether the letter should be produced or not, it was losing a great deal of time to order a search, and afterwards to re-examine respecting it.

The Earl of Lauderdale.—Your ladyship has said, that when at Naples you have been in her Royal Highness's bed-chamber; did you go into her Royal Highness's bed-chamber when you were not sent for, or without knocking at the door?—I do not suppose that I went without being sent for; but I am certain I did not knock at the door when I went.

Do you recollect ever having gone there without being sent for?—I do not recollect at Naples whether I did or not; I should not have gone unless I had had something particular to communicate of course to the Princess without being sent for, and I do not recollect that that occurred whilst I was there.

Your ladyship has said, that before you went to Naples there was an arrangement about your quitting the service of her Royal Highness at a particular time; was that an arrangement of your proposal, or proposed to you by the Princess of Wales?—It was my proposal when I

was at Nice. Her Royal Highness wrote to me, saying, that as I was still upon the Continent she wished I would come and join her at Naples; in answer to that I said, I would obey her Royal Highness's commands, but I hoped she would not object to my availing myself of the request of my brother to return to England, as I wished to be in England by the beginning of the summer, and could not very well travel by myself.

The following question was put by the *Lord-Chancellor* at the request of the Solicitor-General :—

At what month in the year 1817 was it you resigned your situation under her Royal Highness?—Upon my word I cannot be entirely accurate as to that, but I should think it was either the month of June or July; about that time of the year.

The Earl of Liverpool asked the Lord-Chancellor what was done respecting the production of the letter?

The Lord-Chancellor said he would give no opinion respecting the possession of a letter upon a hypothetical case. Nothing could be more dangerous.

The Earl of Liverpool said he wished to know where they were—was a search ordered or not?

The Lord-Chancellor said, if any noble lord desired a search to be made, he might order to that effect. But if any question should arise upon the letter, after it was ascertained whether the letter could be found or not, that question could not be asked now. But if it contained only reports, it was impossible that any questions respecting such reports could be asked.

The Earl of Lauderdale desired that a search should be made for the letter.

The Lord-Chancellor.—Search must be made for the letter.

Mr. Brougham (Lady Charlotte Lindsay having withdrawn).—We undertake, my lords.

The Lord-Chancellor.—If Lady Charlotte Lindsay can find or cannot find the letter, you will communicate to the house.

Mr. Brougham.—Most undoubtedly, my lord.

The Right Hon. the EARL OF LLANDAFF was then sworn by the *Lord-Chancellor*, at the table, and examined by *Mr. Brougham.*

Was your lordship in Italy in the year 1815?—I was.

Was your lordship accompanied by the countess?—I was.

Were you together at Naples during that year?—We were.

How long a period of the year were you at Naples together?—I went there the latter end of 1814, and I remained there till April 1815.

Did you go there in November 1814?—In November or December, I do not exactly recollect which.

But before the end of 1814?—Yes.

During that time did your lordship frequent the society of the Princess of Wales?—I did.

Did your lordship frequently visit at her Royal Highness's house?—Very frequently.

Was your lordship at her Royal Highness's frequently in the course of a week?—Yes, I was certainly.

About how often in a week?—Once or twice a week.

Did your lordship dine there?—I did, frequently.

Did your lordship frequent evening parties there also, at times when you had not dined there?—I did.

Did the Countess of Llandaff accompany your lordship to her Royal Highness's house upon those occasions?—Most generally.

What society visited her Royal Highness in Naples at the same period with your lordship and the countess?—I think the generality of the English, all the Neapolitan noblesse of course.

During the time that you had that intercourse with her Royal Highness did your lordship ever observe any impropriety in her conduct?—No.

Did your lordship observe any thing in the demeanour or habits of her Royal Highness which made it at all unpleasant for you to permit the countess to associate with her?—Not the least.

Was Bergami at that time in her Royal Highness's service?—He was.

Did your lordship see him so?—I saw him constantly.

Did your lordship see any thing in the manner of her Royal Highness towards him, or in his manner towards her Royal Highness, that was at all improper?—Never.

Did your lordship ever afterwards, after leaving Naples, again meet her Royal Highness in society in Italy?—I met her Royal Highness after that at Venice.

About what time of the year was that?—I think it was about June or July 1815.

Where did your lordship lodge at Venice?—I lodged at the Hotel Gran Brettagna.

Was the countess with your lordship there also?—She was.

Where did her Royal Highness then live?—Her Royal Highness was then in the same hotel; she had one side of the hotel, I had the other.

Did your lordship renew your intercourse in society at that hotel with her Royal Highness?—I did.

Did the countess also?—She did.

Did your lordship observe any thing there of an improper description in her conduct or demeanour?—Not the least.

Did your lordship ever happen to go into her Royal Highness's chamber while living in the same hotel?—I have occasionally gone in there in the morning, her sitting-room being immediately opposite my sitting-room.

Did your lordship on those occasions knock at the door before going into the room?—I cannot take upon myself to say whether I did or not.

Does your lordship recollect ever having gone in without that ceremony?—I cannot take upon me to say; I rather think I have, for this reason, I had a child that her Royal Highness took a fancy to, and I used to walk in with the child into her Royal Highness's room.

Did your lordship say you ever recollect having knocked before you went in?—*No, I do not.*

Your lordship does not recollect having knocked any more than not having knocked?—No.

Has your lordship lived for any considerable time in Italy, besides those different months you have mentioned?—Yes, I have.

A good deal?—Two years.

Does your lordship know whether it is the practice in Italy for men as well as women to be in ladies' bed-chambers in the course of the morning?—I think it is a very common practice in Italy for men to attend ladies' rooms as much as women.

Is it an ordinary practice in Italy for men to see ladies in their bed in the morning when they call?

The Attorney-General said he objected to the question.

The Lord-Chancellor said, that the witness must state whether it was from his own knowledge he spoke.

Mr. Brougham.—Your lordship is requested to speak from your own knowledge, and your own practice and experience?—I have seen many ladies in bed in a morning.

Was that in the ordinary intercourse of society?—It was.

Were those ladies of unimpeachable conduct and character?—They were, as far as I know.

Did your lordship at the same time see other gentlemen enjoy their society in the same manner?—I have.

And at the same time with your lordship?—At the same time my brother and I were together; and we have frequently gone together into rooms where ladies were in bed.

To make a morning visit?—To make a morning visit.

Cross-examined by the *Attorney-General.*—When was it that your lordship was at Venice when her Royal Highness was there?—It was either June or July in the year 1815.

Was Bergami with her Royal Highness at Venice?—He was.

In what situation was he then, does your lordship know?—As courier.

Did your lordship dine with her Royal Highness at Venice?—Not at Venice.

At any other place than at Naples did your lordship dine with her Royal Highness?—I did not; I never met her at any other place than Naples and Venice.

How long was your lordship at Venice whilst her Royal Highness was there?—I remained at Venice, I think, about two months.

How long was her Royal Highness there at that time?—I do not recollect; she left the hotel, and I cannot state how long she remained there.

You have been asked whether you were in the habit of visiting her Royal Highness, and going into her bed-chamber without notice; did your lordship mean her bed-chamber?—No, certainly not; her sitting-room.

Examined by the Lords.

The Earl of Lauderdale.—Does your lordship recollect the names of the other attendants at Naples when you dined with her Majesty?—The servants; no, I do not.

Can your lordship state any circumstance which has impressed the name of Bergami upon your mind, without your knowing the name of any other attendant at table?—Bergami was a very singular figure, and I knew him by that; I recollect him by his figure; he was a strong looking man.

Is your lordship to be understood that you became acquainted with

Engraved by E. Page.

THE HON^{BLE} KEPPEL CRAVEN,

Vice Chamberlain to Her Majesty!

Published by J. Robins & Co Ivy Lane, London, February 1st 1822.

his name by remarking his figure, and from that circumstance asking what his name was?—I never asked what his name was; but he being pointed out to me as Bergami, and from his figure I did not forget him; I recollected him afterwards from that circumstance.

Does your lordship recollect who pointed him out as Bergami?—I do not.

Lord Grantly.—Whilst your lordship was abroad, did you observe any thing in the conduct of her Royal Highness calculated or likely to reflect disgrace upon our own country?—I did not.

Lord Ellenborough.—Does your lordship recollect a ball given by her Royal Highness to King Murat at Naples?—I do.

Was your lordship present at that ball?—I was.

Does your lordship recollect the dress of her Royal Highness upon that occasion?—I do not.

His lordship withdrew.

The Honourable KEPPEL CRAVEN was then called in, and having been sworn, was examined by *Mr. Denman.*

In the year 1814 you were in the service of her Royal Highness the Princess of Wales, as one of her chamberlains?—I was.

Did you leave this country with her, and go to the Continent in that character, in the course of that year?—I did not leave this country with her; I joined her Royal Highness at Brunswick

Did you accompany her Royal Highness from Brunswick to Milan, and from thence to Naples?—I did.

When you joined her Royal Highness at Brunswick, was it settled between her Royal Highness and you, how long you should remain in attendance upon her?—Not exactly the time, but as much space of time as my affairs would allow me to give up to her Royal Highness.

How long, in point of fact, did you remain in attendance upon her Royal Highness's person?—I remained rather more than six months.

Where did you leave her?—At Naples.

And why did you leave her?—It was always understood, when I entered her Royal Highness's service, that I could not stay with her more than two or three months; when I arrived at Naples, I found that I could remain with her as late as the month of March, and I therefore informed her Royal Highness of this, and she was pleased to continue my services with her.

Did you in fact stay three months longer than you originally intended to stay;—I staid about four months longer than I had intended to do; for when I first set out, I did not expect to stay above two months with her.

Do you remember, when you were at Milan with her Royal Highness, that any courier was dischaged for misconduct or any other cause?—There was no courier discharged at Milan, but he was to be discharged afterwards, and another was to be found at Milan to supply his place.

In consequence of that, did you apply to the Grand Chamberlain of the Emperor of Austria, to find a person of that description?—I applied to the Marquis Ghisiliari, who had been appointed by General Bellegarde to attend upon her Royal Highness whilst she was at Milan, in capacity of Chamberlain.

Did he mention any person to you, to supply the place of that discharged courier?—Yes, he did.

Who was that?—A person whom I found afterwards to be called Bergami.

Will you be so good as to state, whether he recommended Bergami as a person fit to be received and trusted in the service of her Royal Highness?

The Solicitor-General objected to the question, as what the marquis had said in recommendation of Bergami, could not be received in evidence.

The Lord-Chancellor said, that it appeared to be part of the transaction.

The question was then put, and the witness said,

He did, he recommended him very strongly.

Did he state whether he had any knowledge of the family of Bergami?—He said he had known his family a great while, and that he was interested about them.

The Solicitor-General here repeated the objection which he had just before taken to the evidence, and maintained that the last question and answer ought to be expunged from the minutes.

Mr. Denman, on the contrary, maintained, that all which had occurred was material evidence. He should wish to argue the question.

The Lord-Chancellor observed, that whilst that point was discussing the witness ought to withdraw.

The witness accordingly stepped from the bar.

The Lord-Chancellor then called upon Mr. Denman to state the question which he wished to argue.

Mr. Denman.—The question was, whether the two last questions and answers were to stand upon the minutes, and whether he was to be allowed to continue his examination as to the family of Bergami. Now, he did not wish that either those questions should stand upon the minutes, or that his examination into the family of Bergami should be allowed to continue, unless they were necessary to show that the family of Bergami was respectable, the allegation of the bill being that he was a foreigner in a low situation—a menial servant, promoted highly beyond his merits. Now, if he proved that Bergami had been recommended to her Majesty, by the highest authority, as a person whose family was respectable, though in reduced circumstances, and whose conduct was such as entitled him to consideration, and rendered him a fit object for promotion, he apprehended that he had shown sufficient cause why her Majesty had given to Bergami that promotion which it was now imputed to her as a crime that she had given; and it was therefore impossible to prevent him from showing that her Majesty's

motives were pure, unless they wished to preclude him from entering into her defence altogether.

Mr. Brougham was proceeding to enforce the same argument, when he was interrupted by

The Lord-Chancellor, who said that, to save time, he would take the liberty of declaring, that if what had been said to the witness by the Marquis Ghisiliari had been afterwards repeated to her Majesty, it might be admitted as evidence, because the manner in which her Majesty's mind had been influenced on this subject was most material.

Mr. Brougham.—My lord, our object is to show the manner in which it was influenced.

The Lord-Chancellor informed the counsel, that if what was stated to the witness was afterwards represented to her Majesty, that representation of it formed a ground on which the evidence might be admitted, for that the representation to her Majesty, and its influence on her future conduct towards that individual, might be material; that it must not be taken as proof of the fact represented, but that there was a representation true or false made to her Majesty, on which she might be supposed to have acted.

The witness was again called in.

Mr. Denman.—Did you know any thing of Bergami before the Marquis Ghisiliari recommended him to you?—Not at all.

Were you desired by the Princess of Wales to make inquiry for such a person?—I was.

Did you communicate to her Royal Highness the result of the inquiry you had made of the marquis?—I did so.

Have the goodness to describe what it was that you communicated from the marquis as to the character of the individual engaged?—I told her Royal Highness that the Marquis Ghisiliari had a person that he wished to recommend to the situation of courier, and that he could recommend this person very strongly, having known his family some time, and wishing to obtain a good situation for him; that was as far as I recollect what I said to her Royal Highness upon the subject.

Did you state any thing to her as to the situation in which he was hired, in which he was engaged?—I think Marquis Ghisiliari told me that he hoped the man might remain in the situation.

Did you communicate, to the best of your recollection, what you are now stating to her Royal Highness?—Yes, I communicated all that the marquis said to me to her Royal Highness.

Have the goodness to state what the marquis said as to the probability of promotion?—He said, that he hoped if he behaved well he would be continued in the family.

Was any thing said about advancement or promotion?—Yes; Marquis Ghisiliari said, that he hoped he might remain as a servant out of livery in the house when her Royal Highness stopped any where.

Did he state any thing as to what he knew of his family, any thing more particular, than what you have mentioned?—I do not recollect

that he said any thing particular, except that he had known him a great while, and that he wished to be of use to all of them.

Did it ever happen to you to see the marquis and Bergami together?—Yes, at Milan and at Piacenza.

Did you observe the manner in which the marquis treated Bergami on those occasions?

The Solicitor-General objected to the question.

Among the recommendations you carried to her Royal Highness of the persons recommended to her service, did you mention the manner in which he was received and saluted by the Marquis Ghisiliari?

The Solicitor-General objected to the question, it being, like many others, a leading one.

Mr. Denman challenged his learned friend to show that he had put any leading questions.

The Lord-Chancellor here said, that the proper way of putting the question would be by asking, whether, besides the circumstances of the recommendation, he had observed any thing particular in the behaviour of the marquis to Bergami.

What recommendations did you mention as reasons for her Royal Highness receiving this person into her service?—Marquis Ghisiliari told me he had known him, and his family a long while, that he wished to be of use to them, and that he was particularly interested about him also, as he had served some friends of his, as I understood.

You went to Naples with her Royal Highness?—I did.

On your approach to Naples, were you met by any persons at some distance from that city?—We were met by the then King of Naples, but first of all by some of his officers.

Do you recollect whether you took refreshment any where on the way?—We slept three nights on the road.

At what time, in point of fact, did you enter into Naples?—Naples itself we entered on the 8th of November, about half an hour before dark.

What time by the clock would that be?—Half past six, I should think.

Did you go that night to any house that had been taken for her Royal Highness?—Immediately on our entering Naples, we drove to the house that had been taken for her.

Did her Royal Highness then take possession of it?—She did take possession of it.

Do you recollect whether there was any thing particular about the arrangement of that house, in respect of its convenience for the party that first night?—It was very inconvenient, for Sir William Gell and myself had two very bad rooms.

Was there any thing generally observed about the want of accommodation for the suite?—There was not room enough for the whole suite by any means.

Were you and Sir William Gell able to continue in the same house, or did you take lodgings elsewhere the following day?—It was agreed we should take lodgings as soon as ever we could find them, and we looked for them the next morning, in the course of the next day.

Do you recollect any particular persons calling on her Royal Highness *on the following* day?—The King and Queen of Naples called *upon her.*

Do you know where she dined on the first day after her arrival?—She dined at court.

Was there any entertainment given at court after dinner?—There was a concert.

Do you know how late her Royal Highness remained at that concert?—About half past eleven I should think.

Did you leave the concert with her Royal Highness?—Yes, for I was in waiting.

On the evening next following that; that was the second entire day of her Royal Highness being at Naples, do you remember where she passed her evening?—She went to the Opera.

Did you go with her Royal Highness to the Opera?—All her suite went with her.

Did any other persons go with her to the Opera?—She went from her own house to the palace, and from the palace with all the court and their retinue, to the Opera.

Do you remember the box which was provided for her at the Opera?—She sat in the state-box with the King and Queen.

Was there any illumination in the house that night?—The Theatre was entirely illuminated.

Did you return particularly early from the Opera that night, or how?—The Opera at Naples always ends very late, and we staid till the end of it.

Can you state whether it ended earlier or later than usual on that evening?—I should think it ended rather later, for it began later.

What is the usual hour at which the Opera may be said to end at Naples?—It varies, because it begins later in the summer than in the winter.

In November?—It depends upon the length of the dance also.

Have you any recollection of the length of the dance on that evening?—Yes, it was very long and very tiresome.

Did her Royal Highness and her suite remain till the whole was entirely concluded?—Till the curtain dropped.

Do you remember a masked ball that was given by her Royal Highness, as a compliment to the reigning King of Naples?—I do.

Do you remember any dress that her Royal Highness wore upon that evening?—I remember she had three dresses; two of them I recollect perfectly well; the other I do not remember so well, because I only saw her for an instant.

Will you mention the two that you remember?—One was a Turkish dress I think, and the other was that of a Neapolitan Peasant; the third was the Genius of History, as I was told.

Did you see that dress which you were told was the Genius of History?—I saw it for a short time.

Upon her Royal Highness?—Upon her Royal Highness.

That night?—That night.

Be so good as to state to their lordships whether that dress was in the smallest degree indecent or improper?—I do not recollect that it was at all indecent.

Do you recollect particularly as to the breast?—I think it was a dress of white drapery that came up very high, as far as I remember.

Do you remember what dress it was that her Majesty wore before she put on that?—I do not exactly recollect, but I think it was the Turkish dress; it must have been the Turkish dress, because the last she wore was the *Neapolitan Peasant*.

As far as you recollect at this distance of time, would it or would it

not have been possible to have put on the dress of the historic muse over that she wore as a Turkish Peasant?—I really do not know, because I took no notice of the Turkish dress much; it might have been put over some part of it certainly.

Then, according to your recollection, would it have been necessary that the dress should have been entirely changed when her Royal Highness shifted from that of a Turkish Peasant to that of the historic muse?—Not necessary entirely.

Bergami was engaged, you say, at Milan?—Yes.

Did he attend her Royal Highness from Milan to Naples, and continue in her service during her residence there?—Yes.

Did you observe any impropriety of conduct, or any degrading familiarity between her Royal Highness the Princess and Bergami during the time between the engagement at Milan, and the departure of her Royal Highness from Naples?—Never.

Have you dined subsequently at table with her Royal Highness and Bergami?—I have.

Has that happened frequently?—Three times.

Upon any one of those occasions did you observe any sort of impropriety of conduct between those two individuals?—Never.

Do you know the Countess of Oldi?—I have seen her once.

Is she a person of vulgar manners?—No.

Do you remember having any conversation with her Royal Highness before she arrived at Naples, upon the subject of William Austin?—Yes.

Have the goodness to state what it was?—I think that I told her Royal Highness, before we came to Italy, that it would be as well that William Austin should no longer sleep in her Royal Highness's room.

Did you state any reason for giving that advice?—I said that the people in Italy might make observations upon it.

Was any thing said about his age?—Yes; I said he was of an age that might give rise to those observations.

Of what age was he then?—I do not exactly know what age he was.

Was he six or seven?—No.

How old do you think he was?—Thirteen or fourteen, according to my idea; I do not exactly know what age he was, I only went by his looks.

Did you dine with her Royal Highness at Naples generally?—Whenever she had company.

Amongst that company, did you ever see the Baron Ompteda?—Yes, very often.

On those frequent occasions when you have seen him at her Royal Highness's table, do you recollect whether a person of the name of Theodore Majochi had any opportunity of seeing him?—Yes, he must have had an opportunity of seeing him, for he waited at table.

Did he wait habitually at table?—Every day when there was company.

On the death of his late Majesty did you attend the Queen at Rome?—I came to Rome very soon after that event, and I waited upon her Majesty the day after my arrival.

How long after that did her Majesty leave Rome?—I think she left Rome the day after I was with her.

Do you know, with reference to the obtaining of a passport, or any other official proceeding, by what style and title her Majesty was *called, after she* had become Queen of England?—I understood that *the passport*——

The Solicitor-General.—What Mr. Craven understood about the passport could not be admitted as evidence. If it was requisite that the contents of the passport should be made known to their lordships, it must be by the production of the passport itself.

Mr. Denman.—Mr. Craven had not spoke of understanding the passport. He said he understood *that* the passport, &c.——

The question was again read from the shorthand-writer's notes.

The Lord-Chancellor was of opinion, that if that question meant and purported to be one as to the contents of the passport, it would not do: if it was meant to ascertain by what style and title application was made for the purpose of obtaining it, it would do.

Mr. Denman, in explanation, said, that he required the witness not to speak to the contents of the passport, but to the mode of application, as regarded the style and title.

The Lord-Chancellor.—You are applying yourself, then, not to its contents, but only as to the application made for it?—Clearly not to the contents?

Mr. Denman.—No, my lord, not to the contents, but to the style and title in and by which application was made, to induce the proper authorities to give her Majesty the passport.

By what style and title, as regarded her Majesty, were the necessary passports agreed to be granted?

The Solicitor-General repeating his objection, Mr. Denman declared that he would not once again press the question; it might be erased, if the learned counsel pleased, from the minutes of the evidence.

Was the Baron Reden, the Hanoverian minister, at Rome at that time?—He was.

Is the Marquis Ghisiliari now alive?—No, he is dead.

Cross-examined by the *Solicitor-General.*—Do you recollect where that conversation took place about William Austin?—I cannot recollect the place, but it must have been soon after we left Brunswick.

Were you rightly understood that that was the recommendation you gave to her Royal Highness with reference to Italy?—It was.

Then that was a recommendation that was prospective on your part?—It was so.

You have mentioned that you saw the Countess Oldi once; will you have the goodness to mention where that was?—It was at Pesaro.

Did you dine at Pesaro upon that occasion?—I did so.

And you saw her at dinner?—I saw her at dinner.

You have mentioned that you dined at the same table with Bergami three times; have the goodness to mention when that was, and where the first?—The first time was at Pesaro; that was supper, not dinner.

Were the other occasions also at Pesaro?—One was at Pesaro, and the last was at Rome.

Was that at Rome upon her Majesty's way to this country?—It was the day before she left Rome for this country.

Did you accompany her Majesty?—No.

You parted with her at Rome?—I did.

You are understood to say, that at the masked ball at Naples you took no particular notice of the third dress, the dress of the Genius of History?—That was the second dress; I saw it for so short a time I had not time to take notice of it.

Did you see Bergami at that ball?—I do not recollect that I did, but all the servants were there.

Did you go up into her Royal Highness's room?—No.

No part of the evening?—No part of the evening.

You have been asked whether, in your judgment, it was necessary to take off the whole of the first dress for the purpose of putting on the second; whether it was or was not taken off, can you say or not?—I cannot say whether it was taken off, or whether it was not.

Did you and Sir William Gell live out of the house during the whole of the time you were at Naples, except the first day?—We were in the house for, I think, two nights; we slept there.

The rest of the time you lived out of the house?—Entirely; we dined in the house.

Did you not usually come to the house merely for the purpose of dining?—We took our waitings by turn, and the person who was in waiting was in the house all day long.

Where was the room in which you waited, in reference to her Royal Highness's apartment?—It was in the end room of the front suite of rooms, and there were two rooms between that and her Royal Highness's bed-chamber.

You have said something as to the disposition of the rooms on the first night of your arrival at Naples; do you yourself personally know what that disposition was?—I only know with regard to my own rooms and those of her lady in waiting.

Was there no circumstance that led you to know in what room Bergami slept the first night?—No.

Or what room was appropriated for him the first night of your arrival at Naples?—No, I heard nothing mentioned about it.

Did you ever, either to Lady Charlotte Lindsay, or to any other person, state that you had made a representation to her Royal Highness as to what had been observed with respect to her Royal Highness and Bergami on the terrace of the garden attached to the house at Naples?—I did so; I did not mention it to Lady Charlotte Lindsay, but I mentioned it to a person at Naples; I mentioned that I had spoken to her Royal Highness about it; it was with regard to what I had observed.

What you had seen?—Yes.

Have the goodness then to state what it was that you saw, and what you represented?—I saw her Royal Highness walking in the garden, and Bergami was near, he was walking also in the garden: I knew there was a spy at that time at Naples; I had had information of it from England; that being the case, I thought it necessary to caution her Royal Highness with regard to any outward appearances that might be misconstrued.

When you say you had information from England, was that by letter?—It was by letter.

Was any other person in the garden except her Royal Highness and *Bergami at the time* to which you allude?—She said there was.

Did you see any other person?—No, because she walked on a sort

of terrace, which was much higher than the rest of the garden; there might have been other persons whom I did not see.

Do you know whether that terrace was near to the small cabinet that was contiguous to the room of Bergami?—I cannot tell, for I never was in the garden, or in any part of the house.

Where was the spot from whence you saw her Royal Highness?—From the terrace on the opposite side of the house, near the lady in waiting's apartment.

What apartment was that, was it the apartment of Lady Elizabeth Forbes?—It was so.

Was that terrace on the same elevation as the terrace on which her Royal Highness was walking?—No, it was higher.

When you say it was higher, do you mean that the terrace near the apartment of Lady Elizabeth Forbes was higher than the other?—I think so.

Where was Bergami, on the terrace?—He was on the same level with her Royal Highness.

How far was her Royal Highness from the corner of the building which terminates that terrace?—She was walking along the place.

How long did you see her there?—Only from one end of the terrace to the other, as she walked up.

During that time you saw no other person but Bergami?—I could see no other person but Bergami during that time.

Was that the only time that you ever saw her Royal Highness and Bergami in the garden together?—The only time.

How long was that after your first arrival at Naples, as nearly as you can recollect?—Not very long, for they were doing some alterations in the garden.

State, as nearly as you can tell, whether it was a week, a fortnight, or a month?—I really cannot say exactly how soon it was.

Was it a fortnight or three weeks?—I should say more than a fortnight.

And less than a month?—It might be a month.

Did her Royal Highness tell you who that other person was that was in the garden?—She said there were workmen in the garden.

Her Royal Highness did not tell you there was any other person in her company in the garden?—No, she said she had taken Bergami in there to speak to the workmen.

When you saw her Royal Highness there, however, she was walking on the terrace?—She was.

And Bergami was also on the terrace?—He was walking also.

In the same direction as her Royal Highness?—Yes.

What was the business about which the workmen were employed?—I never was in the garden, but I understood——

Do you know of your own knowledge?—Transplanting trees.

Do you know whether there were, in point of fact, any workmen?—Yes, I know there have been workmen employed in the garden.

At the time when you saw her Royal Highness and Bergami walking, did you see any workmen in the garden?—No, I did not.

From that terrace which is contiguous to the apartment occupied by Lady Elizabeth Forbes, had you not an extensive view of the garden?—No.

Do you not see from that terrace to the extremity of the building?—The house?

And the garden in front of you?—The garden is not in front of the house, the *garden is only at one* end of the house.

The garden is in front of the house in which you were standing?—The garden was in front, but there was a terrace that was higher than the rest of the garden, and that was the terrace on which her Royal Highness was walking.

Then, if there were any workmen, they were down below?—Yes.

But you, in point of fact, saw none?—I saw none.

Were you ever in the garden yourself?—Never.

Do you know, of your own knowledge, whether any workmen were employed there?—I heard so.

You do not know it of your own knowledge?—I never saw any.

How long before her Royal Highness quitted Naples did you leave her service?—I did not leave it till she quitted Naples.

Do you remember a short time before that Bergami coming into the room where you and Sir William Gell were?—He came in very often when we were in waiting.

Do you remember his coming in, not in his dress of courier, but in a black dress?—He never wore his dress of courier after coming to Naples.

Do you remember his coming at any time into the room in which you and Sir William Gell were, and taking a chair?—Never.

No such thing ever happened in your presence?—Not in my presence.

Of course you have never stated such a thing?—Certainly not.

Were you ever at the theatre San Carlos?—Very often.

With her Royal Highness?—Whenever I was in waiting and she went to the Opera, I attended her, and sometimes when I was not in waiting.

Were you ever at the theatre San Carlos when her Royal Highness was there, and you were not of her party?—Yes.

Were you there ever at a masquerade when she was there masked, when you were not of her party?—I never was there when she was at a masquerade; I never was at a masquerade but once while she was at Naples: I understood the first question to refer to San Carlos with regard to the Opera.

During the whole of the time you were at Naples, Bergami acted in the capacity merely of courier?—No.

And waited at table?—He waited at table every day.

How many other couriers were there at that time?—There were no others.

What was Hieronimus?—He was courier while we were travelling, but he was considered as page I believe when we were not travelling.

Examined by the Lords.

Lord Erskine.—At the masked ball where you were present, you have said that you did not particularly notice one of the dresses of her Royal Highness, so as to be able to describe it; if that dress, or any dress that you saw her Royal Highness in, had been grossly immodest or indecent, must you have observed it?—I must have observed it.

Did you observe any dress of her Royal Highness upon that occasion immodest or indecent?—No, not one.

The Earl of Rosebery.—Was the advice with respect to the withdrawing of William Austin from her Royal Highness's chamber followed or not?—I understood it to be followed; I never was in her Royal Highness's room to see whether the beds were there.

A Peer.—You do not know of your own knowledge, whether it was followed or not?—I know at one place on the road it was.

Where was that?—That was in Germany before we reached Italy.

Earl Grosvenor.—Did you consider the manners of Bergami as superior to those of an ordinary courier?—Yes.

The Earl of Darnley.—Have you any knowledge with regard to the passport granted to her Majesty at Rome; did you ever see the passport?—I saw the passport, but I did not read it.

A Peer.—In reference to the opinion you gave her Royal Highness with respect to William Austin, did it proceed from yourself, or was it in consequence of your opinion and advice being asked by her Royal Highness?—It was from myself.

You stated that you saw her Royal Highness on the terrace, walking near Bergami; did you observe, they being near each other, whether they touched each other?—I did not observe that they touched each other.

Did it occur to you that there was any impropriety in the manner in which the Princess was walking with Bergami in the garden at Naples?—Not the least.

Lord Ellenborough.—Were his manners apparently those of a gentleman?—They were above the situation of a courier: they were not so servile and fawning as those of the Italian servants in general.

Were the manners of Bergami those of a gentleman?—Since I have seen him in that capacity they were; before that I had very little opportunity of knowing.

The Earl of Liverpool.—Independently of the letter you received from England respecting her Royal Highness's motions being watched, what other reason had you for giving her a hint respecting walking with Bergami in the garden?—I had no other reason.

Would you have given her the same hint with respect to any other servant, she had been walking with?—Exactly the same.

A Peer.—Could you discover from Bergami's manners and appearance that he had been raised from a lower to a higher situation?—No.

The Earl of Donoughmore.—You have mentioned just now, in answer to a question put, as to the manners of Bergami, that you did not make any observation upon those manners till he became a gentleman, but that from his becoming a gentleman, you did not see any thing inconsistent in those manners; what was the period at which he ceased to be a servant, and begun to be a gentleman?—I do not know what the period was, for I was not with her Royal Highness.

To what period then was it you directed your answer when you said you did not make any observation upon his manners till a particular period, which was when he begun to be a gentleman; what was that period to which you referred?—It was the first time I saw him when he was raised to the situation of chamberlain.

When was that?—It was a year ago, rather more.

He had not begun to be a gentleman when he was walking on the terrace?—No.

You did not consider him then to have begun to be a gentleman whilst you continued with her Royal Highness?—No, for he set off as courier from Naples when she went.

All you speak to, with respect to Bergami is, when he was in his first capacity, namely, that of a courier or servant, and not his second capacity, that of a gentleman?—I have spoken to both times.

The question refers to your continuance with the Queen?—While I was with the Queen at Naples, he was considered as a servant, and waited at table.

When was the change in his circumſtances and ſituation, the commencement of his being a gentleman?—I do not know the preciſe time; I did not ſee her Royal Highneſs afterwards for four years.

Earl Bathurſt.—You have ſtated that you ſupped with the Counteſs of Oldi at Peſaro with her Royal Highneſs; were there any other ladies at ſupper at that time?—Counteſs Oldi I dined with at Peſaro; there was another lady, an Italian lady, whoſe name I do not know.

What company was there at the ſupper?—At the ſupper Counteſs Oldi was not.

What company was there at the ſupper at Peſaro?—Merely her Royal Highneſs's attendants.

Were there any ladies?—There was that ſame lady I ſaw afterwards, whoſe name I did not know.

Was ſhe an attendant upon her Royal Highneſs?—I did not ask; ſhe appeared to be ſtaying in the houſe.

Were there any other ladies?—I did not ſee any other ladies.

Lord Erskine.—You are underſtood to have ſaid, that while Bergami was in the ſituation of a courier, you did not particularly attend to his manners; but that when you afterwards ſaw him, when he was promoted, you ſaw nothing in his appearance or manners inconſiſtent with thoſe of a gentleman?—Nothing at all.

A Peer.—In the journey in which you accompanied the Princeſs of Wales to Naples, in the ordinary arrangement of the rooms, were the ladies or the gentlemen placed neareſt her Royal Highneſs?—The gentlemen were not placed near her Royal Highneſs, but there were always ſome men near her apartment to guard her.

Do you know who thoſe men were that generally guarded her?—It was ſome of the ſervants, Hieronimus ſometimes.

Can you name any others?—It was the upper ſervants, Mr. Sicard might ſometimes, for aught I know, but I did not pay particular attention to it.

The Earl of Lauderdale.—Do you recollect the date at which you went to Peſaro?—Within a few days.

What was the year and the month?—It was the laſt year.

In what month?—I went to Peſaro in my way to England, and in my way back from England; it was on my road.

When you firſt ſaw Bergami on that occaſion, were you introduced to Bergami?—No, Bergami came to me with a meſſage from her Royal Highneſs at the inn where I was.

Did any body come along with Bergami?—William Auſtin came.

On that occaſion, did Bergami in the room take any notice of your ſervant?—I do not know whether my ſervant was in the room or not when he came in.

Were you dreſſed when Bergami came into the room?—Yes, for it was after dinner.

And you did not on that occaſion ſee Bergami ſpeaking to your ſervant?—I cannot recollect whether he did or not; I do not recollect whether my ſervant was in the room or not.

Was it that night you ſupped with her Royal Highneſs?—It was the ſame.

What was the company at ſupper?—I do not know their names; I think Colonel Vaſſali was there; they were all unknown to me except William Auſtin.

Were you with her Royal Highneſs for a conſiderable time before ſupper that night?—Two or three hours.

Did her Royal Highneſs ſay any thing to you about the company that was to be at ſupper that night?—Not a word.

Do you remember any ſinging at ſupper that night?—That lady I mentioned ſung, but it was not at ſupper.

When did that lady ſing?—She ſat down at the piano-forte and ſung a ſong, by deſire of her Royal Highneſs.

Did you ask her Royal Highneſs who that lady was?—No, I did not; I do not know her name to this day.

Do you know whether ſhe was of any profeſſion?—I do not know; I do not know who ſhe was.

Before you firſt got the recommendation from the chamberlain of Bergami, did you ſee him in attendance about the inn at Milan?—No.

Did you make any inquiry whom he had ſerved antecedently?—Mr. Sicard was deſired to make all the inquiries reſpecting his character, after the firſt recommendation by the chamberlain.

Do you know, of your own knowledge, whether inquiry was made of the perſon whom he had previouſly ſerved, relative to his character?—I do not know any thing on the ſubject.

You have ſaid, that on your arrival at Naples, the firſt night it was agreed you ſhould go into lodgings the next day, with whom was it agreed?—With her Royal Highneſs; we came and told her our rooms were ſo bad, we muſt either have other rooms or find lodgings out of the houſe; there was an upper floor in the houſe; I underſtood the gentleman who lived in it was aſked to give it up; he could not give it up, and therefore we went into lodgings. We did not go into lodgings the next day, we could not find them for a day or two.

Were you the perſon who went to ask for the paſſports for her Majeſty at Rome?—No, I was not; the paſſports were aſked for before I came to Rome.

Do you know who was the perſon who was ſent for the paſſports?—I do not know; I think it was Mr. Dodwell.

The Earl of Belmore.—You had known Bergami in the ſituation of courier to her Majeſty?—Yes.

Afterwards he was promoted to the ſituation of chamberlain?—So I heard; it was not while I was in waiting on the Queen.

Do you know whether any further rewards have been conferred upon Bergami by her Majeſty the Queen?—I know nothing but what I have heard from general report.

Lord Combermere.—Was Bergami walking behind her Royal Highneſs on the terrace or how?—He was walking a little way behind her.

As ſervants uſually do behind their miſtreſſes?—Yes.

What impropriety did you conceive there could be in that?—I did not conceive there was any impropriety.

Why then did you give that advice to her Royal Highneſs, if you conceived, as you have now ſtated, there was no impropriety in Bergami walking behind her Royal Highneſs?—Becauſe I underſtood there was a perſon ſent as a ſpy upon the Princeſs, and he might put that down as an impropriety, though I did not think ſo myſelf.

Can you ſtate who was the perſon ſo pointed out to you as a ſpy?—The letter did not contain the perſon's name, but I was told afterwards who it was by a gentleman at Naples.

The witness was directed to withdraw.

SIR WILLIAM GELL was then called in, and having been ſworn, was examined by *Mr. Williams*.

Before his examination commenced, *Mr. Williams* applied to their lordships for the accommodation of a chair for Sir William, as he was indisposed.

The Lord-Chancellor.—My lords, I understand Sir William Gell has got the gout; he is most certainly, therefore, I hope entitled to a chair.

You are chamberlain of her Majesty the Queen?—I am.

How long have you been in the service of her Majesty?—From about a month before her Majesty went abroad.

Did you accompany her abroad?—I did.

To Brunswick?—Yes.

And thence into Italy?—I did.

Do you remember a courier being discharged when you arrived in Italy?—I do.

Where was that?—I believe he was discharged at Florence; but it was agreed he should be discharged when we were at Milan.

Did you make any application to any person for another to succeed him? I forget whether I made an application, or whether the Marquis Ghisiliari came and offered a person to us.

Had you a communication with the Marquis Ghisiliari upon the subject?—I had.

Did you communicate to her Royal Highness what was communicated by the marquis upon the subject of the person he recommended?—I believe I did, most likely I did.

Who was in fact recommended?—A person of the name of Bergami.

What recommendation did the marquis give of Bergami?—He said he had known his family.

Did you communicate this to her Royal Highness?—I believe so.

A Peer.—Are you certain of it?—I am not quite certain.

Mr. Williams.—Were you employed by her Royal Highness at the time to make inquiries of the marquis on the subject?—Oh certainly.

Upon recollection, did you or did you not report to the Queen, the Princess then, the account you had received from the marquis of this person?—As far as to say that he was a proper person.

Are you to be understood that you mentioned to her Royal Highness the recommendation given by the marquis?—Mentioning, I cannot say but in conversation, what had passed in conversation, but not as a decided embassy to her Royal Highness upon the subject.

In conversation in any manner did you mention to her Royal Highness what had been reported respecting Bergami by the marquis?—The conversation passed when her Royal Highness was in the room, and she must have heard it.

The marquis, the Princess of Wales, and you were in the room together?—The marquis mentioned it very often.

Did the marquis ever mention the subject of Bergami, and the recommendation of him, in the hearing of the Princess?—Certainly.

Upon those occasions, or any of them, when her Royal Highness was present, what recommendation of Bergami did the marquis give?—He said he had known his family, that it had fallen into distress from the circumstances which attended the French Revolution; that as to the man himself, he could answer for him being perfectly honourable, honest, and trustworthy, on every occasion on which he might be employed.

Can you recollect whether he stated any thing more in the recommen-

dation of Bergami, in the preſence of her Royal Highneſs?—He ſtated that he was above the office into which he was about to enter, and that he hoped, if he behaved well in the family, as he had no doubt he would, he would be gradually advanced.

Did you ever ſee the Marquis Ghiſiliari and Bergami together, either in the ſame room or meeting by accident in the ſtreet?—I remember when we quitted the Marquis Ghiſiliari at the Piacenza, being myſelf already in the carriage, that I ſaw the Marquis Ghiſiliari take leave of Bergami.

Mr. Parke objected to this question as irregular. He could not consent to the witness stating any thing in this way as matter of opinion.

Mr. Denman rose to support the propriety of the question, but before he entered into his argument

Earl Bathurst suggested, that Sir William Gell should not be present while counsel made any comment upon the answer he was about to give.

Sir William Gell was then ordered to withdraw.

Mr. Denman contended for the propriety of the question just put. He said it lay upon her Majesty's counsel to show that Bergami was not a person of that low and despicable rank which the other side attempted to show. It was surely evidence of his situation in life, to show in what view it was held by a marquis who was the chamberlain and representative in Italy of the Austrian government. Looking therefore at this question, not according to the little technicalities of law, but as a great and leading and necessary question in behalf of her Majesty, he must say, that if it were not allowed to be put, the greatest injustice would be inflicted.

Mr. Williams then contended, that, in point of strict law, comparatively unimportant as was that consideration, he was strictly regular in putting the particular question. Suppose he had stood a mute behind the table of any noble lord who heard him, and that on a future occasion he was seen treated by the condescending familiarity of another peer as an equal, would it not be competent for him to adduce the evidence of any body who had seen the familiarity displayed, for the purpose of rebutting any inference that might be drawn from the previous circumstance?

The Lord-Chancellor said that the opinion of the manner of any body was not evidence, but if any act was seen done by the parties, then the act might be made evidence.

The Earl of Liverpool remarked, that one of the indi-

viduals alluded to was dead, and could not of course be called to speak to any part of the transaction.

Sir William Gell was again called in, and his examination resumed.

Be pleaſed to ſtate to their lordſhips in what manner the Marquis Ghiſiliari conducted himſelf towards Bergami when he took leave of him?—Bergami was, I believe, about to mount his horſe; the Marquis Ghiſiliari being in his uniform as chamberlain of the Emperor of Auſtria, and with his key as chamberlain, denoting what was his employment at the moment, took Bergami round the neck in the ſtreet, and kiſſed him twice before all the people; which we obſerved, as it was a ſingular thing when people were juſt come out of England, though a common cuſtom in that country.

When you ſay the common cuſtom in that country, is it the common cuſtom between equals and gentlemen?—Between equals, and perhaps not otherwiſe.

Among the higher ranks is it not the custom?—It is the common cuſtom among gentlemen.

Do you remember the Princeſs of Wales and her ſuite arriving nearly at Naples, approaching Naples?—Certainly.

Was ſhe met by the then King Joachim?—At Averſa.

That is a ſmall diſtance from Naples?—About ſix miles.

Do you remember whether the houſe to which her Royal Highneſs went at Naples was ſufficient for her and her ſuite?—It was not ſufficient for the ſuite, though it was a very good houſe.

Was there room enough for them there?—There was not.

Do you remember whether her Royal Highneſs was called upon by the Queen of Naples the following morning?—I believe ſhe was.

Do you remember how her Royal Highneſs diſpoſed of that evening after the call from the Queen of Naples?—I remember very well, becauſe I attended her myſelf; her Royal Highneſs was invited by the Queen of Naples to a concert in the palace.

Do you remember how late her Royal Highneſs remained at the concert?—I ſhould think between half paſt eleven and twelve was the time when ſhe quitted it.

Do you remember any thing with reſpect to the ſtate of the Queen at that time, at the concert?—No, nothing particular.

As to her being tired?—Tired, exceedingly tired and annoyed with the length of the concert; it was a very long concert, and very tedious.

On the following evening do you know where the Queen went?—I do, becauſe I was in waiting.

Where to?—To the theatre of San Carlos in ſtate.

What company was there in particular?—I remember every body that was there; it was in the ſtate box of the theatre, which was ſplendidly illuminated for the Princeſs of Wales; the company was the King and Queen of Naples and the Princeſs of Wales.

What was the entertainment?—It was the Opera of Medea, and the Ballet I remember alſo.

How long did her Royal Highneſs remain?—I remember very well, becauſe I was very lame, and had to ſtand behind her Royal Highneſs the whole night, and it muſt have been at leaſt twelve, if not half paſt twelve.

Do you remember the manner in which her Royal Highneſs went back from the Opera?—In the uſual manner, in her own carriage in ſtate, attended by myſelf and thoſe of the houſehold uſually employed on thoſe occaſions.

Was there not a garden nearly attached to the houſe in which her Royal Highneſs reſided at Naples?—Yes, there was.

Do you know whether there was any alteration in that garden, either in tranſplanting trees or improvements?—The garden had been cleaned up and the trees nailed againſt the wall; they were in a confuſed ſtate, lying over the paths, which is cuſtomary in that country.

For what purpoſe had there been workmen in that garden?—I ſaw workmen nailing up trees that had fallen from the walls over the paths.

You ſaw that yourſelf?—Yes, I did.

How ſoon was that after the arrival of the Princeſs at Naples that you recollect the workmen being in the garden?—That I really cannot tell.

Do you remember an entertainment being given by her Royal Highneſs to Joachim the King?—Exceedingly well.

Were you preſent?—I was in waiting again myſelf.

Do you remember at any particular part of that entertainment there being the ceremony of crowning the buſt of the King, or any thing of that ſort?—I remember it perfectly well.

Juſt ſtate what it was?—The company had expected that ſomething was to be ſeen at the opening of a certain door; after a long time the door did open, and there appeared two Neapolitan ladies, the Ducheſs of Civitela and the Counteſs of Derri; I think the Duke of Caſarano, with a trumpet; the Princeſs of Wales came down with a wreath of olive or of ivy, of olive I think, and placed it upon the head of a buſt; the door opened, as it might be ſo; the ſcene was ſhown, and the door cloſed in as much time as I do it, and no longer.

Do you remember the particular dreſs of the Princeſs of Wales upon that occaſion?—I remember it perfectly well, it was a dreſs which I ſhould ſay is beſt exemplified by the figure of the Townley Curiatius in the Britiſh Muſeum, or Mr. Hope's Minerva; it was meant to imitate one of thoſe ſtatues.

Was there any thing indecent or indecorous in the ſtyle or nature of that dreſs?—The whole world is capable of judging; thoſe ſtatues are very much draped, completely covered.

In point of fact upon that occaſion was the dreſs of the Princeſs of that deſcription?—As nearly imitated as dreſs of that kind can be imitated, as it appeared to me.

Were the ducheſs and counteſs you have mentioned to their lordſhips in an appropriate dreſs alſo?—Something in the ſame ſort of dreſs; but the door was open ſo ſhort a time, that it was almoſt impoſſible to diſcover any thing with accuracy; it was almoſt like a flaſh of lightning; it was meant to repreſent that.

Did you attend the Princeſs further than Naples or not?—I remained at Naples.

What was the cauſe of that?—Becauſe I was tired of travelling with the Princeſs, particularly in the winter; and I really was not able to attend her in the way in which ſhe travelled.

Why not?—Becauſe I had the gout very frequently, and had it very often while I was travelling with the Princeſs.

Did you ſee her Royal Highneſs again after that time?—Several times.

Where firſt after her Royal Highneſs quitted Naples?—On her return from her tour in Paleſtine, I met her on the road and accompanied her to Rome, and then went into waiting.

Did ſhe apply to you to come into waiting?—It became a matter of courſe; I do not remember the words of any application.

How long did you remain in waiting at that time upon her Royal Highneſs?—As long as her Royal Highneſs remained at Rome.

Do you remember whether upon that occaſion any perſons of diſtinction waited upon her Royal Highneſs?—I remember very well, as I preſented ſeveral myſelf.

Mention any that occur to you now?—The Count de Blacas, the French ambaſſador; I remember it from a remarkable circumſtance, that he introduced himſelf with the miniſters of the houſe of Bourbon. I remember obſerving that the miniſter of the houſe of Braganza, and others, came rather in a manner extraordinary, becauſe they were called the miniſters of the houſe of Bourbon, they announced themſelves as that on the ſtaircaſe; the Portugueſe miniſter.

In what year was this?—It was on her Royal Highneſs's return from Turkey.

Had ſhe been ſome time returned from the long voyage then, do you know?—No, becauſe I met her on the road.

In the year following, were you again in attendance upon her Royal Highness?—I was in attendance upon the Princeſs when ſhe was at the Villa Ruffinelli, at Fraſcati, and at the Villa Brandi the ſame year.

How long did you remain in attendance upon that occaſion?—About three months, rather more than leſs.

At that time do you remember whether any perſons of diſtinction viſited her Royal Highneſs?—A great many.

What was the reaſon why you did not continue longer in attendance upon her Royal Highneſs than the three months you have deſcribed?—Becauſe her Royal Highneſs was going to the North to ſettle ſome of her affairs, and ſhe gave me leave to go to Naples.

Where was her Royal Highneſs going to?—She had an idea of going to Como; a large party was invited to go with her Royal Highneſs to Como; the Princeſs of Saxe Gotha, and ſeveral other perſons; but ſhe found it convenient to ſell the villa at Como, and that put off the whole party; the Princeſs Dietrichſtein was alſo to be of the party.

Have you been in attendance upon the Queen after that time, till lately?—I have been in attendance only for a few days, while the Princeſs as Queen paſſed through Rome the laſt time.

Upon that occaſion were you employed to apply for a paſſport for the Queen?—No, I was not; that had been done before by Mr. Dodwell.

Did you yourſelf ſee the paſsport?—I ſaw the order for the poſt-horſes, which I conſidered as a paſsport, ſigned by the Secretary of State.

Do you mean that you ſaw the Secretary of State himſelf ſign it?—I ſaw the order for the poſt-horſes, with the Secretary of State's name, Gonſalvi, written under it; and ſeveral other gentlemen were called to witneſs the ſame fact, whom I can name if it ſhould be neceſſary.

That paſsport is left at the firſt ſtage you come to?—I believe it is given to the poſt-maſter.

You did not get it along with you further than the firſt ſtage, at all events?—I believe it is given to the poſt-maſter, which was the reaſon why four gentlemen were called to witneſs the manner in which it was made out.

How was it made out?

The Attorney-General submitted that his learned friend was now entering on a course of examination that was objectionable on two different grounds. In the first place, the contents of a written instrument were not, by

a fundamental principle of law, admissible in the shape of parole evidence. At the same time he thought it manifest that the circumstances to which this part of the examination was directed were not material to the question which their lordships had to try.

Mr. Denman said, that in answer to these objections, as briefly stated on the other side, he had to remark that the rule of law, as observed in practice, was to receive evidence regarding the contents of a written instrument, if that evidence was shown to be material to the general issue. It had already appeared that, conformably to usage, the passport in question was left with a post-master in Italy.

The Earl of Liverpool begged to remind the learned counsel that it was not a regular passport, but an order for post-horses.

Mr. Denman.—It operated as a passport: according to the strictest rule observed in the strictest court, he was entitled, after previously indicating the materiality of the question, to render evidence as to the contents of any document. If his learned friend (Mr. Williams) were allowed to pursue his examination, he would assure their lordships that very important facts would be discovered. He would undertake to say, that the questions put by his learned friend, upon this subject, were most material, as affecting the interests of his royal client. It would be proved, if their lordships received the information, that in this passport, or post-horse order, or document of some kind, her Majesty was treated by the secretary of his Holiness in a very extraordinary manner. They would find that his excellency thought proper to describe her in that document as the "Princess Caroline of Brunswick," after being fully apprized that she had become Queen-consort of England. The Pope's secretary of state waited not for any judgment of the British legislature,—he wished not for any act of Parliament to dethrone and degrade a Queen, in order to justify his conduct. He would undertake to say, that, if not restrained, a great deal more of important matter would be adduced. It might possibly appear that the secretary of his Holiness had acted in this way at the instigation of the Hanoverian ambassador—he meant the Hanoverian minister at the Papal court. It might be shown that all the means which are of usual force to corrupt and *influence* the human mind had been

employed with an activity truly remarkable. The point, however, on which he now rested, was, the strict, fair, and legal admissibility of such evidence, at this stage of the proceeding. Even although a doubt existed on the technical propriety of the question, yet its importance to the elucidation of truth, its importance to the honour of a Queen charged with the crime of adultery, and its importance to the honour and happiness of the whole British nation, were considerations that would necessarily impress themselves on their lordships' minds, and exercise a salutary influence on their judgment.

Mr. Williams, on the same side, argued, that supposing the preliminary objection to be of that kind that must prevail in the courts below, or in the trial of an ordinary case, it was not a complete or valid objection in the present instance. But in every court of justice the materiality of evidence was a consideration to be entertained. No rule of admissibility was so strict as to exclude evidence that might affect the real merits of a case. It was always open, after the reception of such evidence, to determine whether it should be allowed to operate on the judgment which was to be ultimately pronounced. The present question came distinctly within the latitude sanctioned in courts of subordinate jurisdiction; and where, if a written instrument were shown to be lost, parole evidence of its contents was regularly admitted. No doubt could be entertained that a document had in this case been left abroad—left in a part of Europe where their lordships could exercise no control, and from which there were no positive means of recovering it. It was like a document shown to be lost, or to be no longer in existence. These were the considerations which seemed to him applicable to the first and only question which it was now necessary to discuss—the question of admissibility: whether the evidence was material or not was a subject for further and subsequent consideration.

The Attorney-General, in support of his objections, thought it extremely unfortunate that whenever, in the discharge of a duty which he could not abandon, he did object, on principles of law, to the course which was pursued on behalf of the defence, his learned friends should break out into invective, and, instead of a distinct answer, should appeal to the passions or fancy of their audience. It was said that his objections were tech-

nical; but what was his situation if he was to be so told whenever he found it necessary to interpose? Advantage had been already taken of his not interposing at previous stages of this proceeding: the *argumentum ad hominum* had been more than once addressed to him, and his silence interpreted into concession. Why was he to be required by his learned friends to deviate from the usual course, or discard rules of evidence wisely framed for the discovery of truth? One of those fundamental rules was, that no verbal testimony, no parole evidence as to the contents of a written instrument, should ever be received till it was shown that the instrument, once in possession, was at length lost or destroyed. It was doubtful, he conceived, whether, under any circumstances, evidence with regard to the documents now in question could be admitted; but it never yet was heard of, in a court of justice, that, upon a mere suggestion that a post-office order was left abroad, it was right to hear a witness go into a narrative of its contents. In a case of no unfrequent occurrence, that of the loss of a bank-book, an examined copy was always required. The other side was bound to show that due pains and diligence had been used for the purpose of obtaining or recovering possession of the document. If their lordships would refer to the question of materiality, they would find it difficult to discover of what importance it was to this case to show how a particular passport, or order for post-horses, had been drawn up the Pope's secretary of state. It was his duty to watch the course pursued by his learned friends on the other side: their lordships could not judge at once whether evidence thus tendered might not be material; and the only security was in adhering to the known and established rules of evidence. Whatever might be the remarks or animadversions to which he subjected himself, he was resolved to pursue a straight-forward course; and he trusted their lordships would excuse him if he did occasionally interpose, and remark the deviations that were attempted from those rules of evidence to which he had alluded. The evidence which his learned friends now tendered could not be received if those rules were adhered to. The evidence against the Queen had been limited in respect of time, and all the circumstances referred to in that evidence had occurred long before the period when the document in question first came into existence.

The Lord-Chancellor observed, that the question just argued between the counsel at the bar was one of very great importance in itself, and also as it respected the merits of the present case. It was impossible, with justice to the case, to apply a rule to one part of the evidence, and not to enforce the application of it to every other part. If it was thought right to depart generally from the practice of the courts below, the departure ought to be complete. The first question was that of admissibility; and, according to every legal principle of evidence, the proof of the loss or destruction of a document was to be made out before any parole testimony relative to it could be admitted. There were innumerable cases in which documents had been lost, the contents of which were most material to a clear understanding of the whole merits; but every court proceeding upon the known rules of evidence required it to be shown that application had been made, and all diligence used, for their production, and in vain. He should, therefore, propose that a question be referred to the judges upon this subject, and that it should be framed in something like the following mode:—"Whether parole evidence, as to the contents of a passport stated to have been left abroad, could be admitted without some previous general testimony that application had been made; or, if not, that it could not have been made with any prospect of success?" If the learned judges should decide in the negative, the second question of relevancy or non-relevancy would be disposed of. He would now only add, that it was impossible, in this stage of the proceeding, to conduct it so as to attain the ends of justice, unless they protected the witnesses up to its conclusion. He was sure no noble lord would have applied the epithets of corrupt or perjured to any witnesses in the midst of a pending process.

The Earl of Lauderdale said, it seemed to him to be assumed that an order for post-horses was a passport, or else that it could be evidence in the absence of a passport, both of which propositions he was disposed to deny. A passport was given in the first instance, and from it an order for post-horses was made out; but if their lordships wished to know what was the tenour of the passport, he did not believe that object could be attained by a mere reference to the post-horse order. With respect to the possibility of the passport having

been destroyed, that was a preliminary point, which their lordships ought to decide. If it were in existence, it would be the proper evidence as to the designation that had been given to her Majesty.

The Lord-Chancellor observed, that in the question which he had recited he had mentioned the post-horse order, with reference to its being the next best evidence, in case the passport could not be produced. The whole matter would be for the consideration of the learned judges.

The Marquis of Lansdown said, it appeared to him that it would be more difficult to get any information, as to the post-horse order, than it would be to procure information relative to the passport, and for this reason, because the passport remained in the hands of the person who got it, and that person might be asked whether he had the document in his possession, or whether he had destroyed it? But it was not so with the order of post-horses, which was left with the post-master, as his justification for granting those horses. The individual who presented the order had afterwards nothing to do with it. He begged leave to state, contrary to the opinion of the counsel at the bar, that a post-house was not like a court of record, where every paper was preserved. No reason existed for preserving papers there, as they were preserved in other offices. The post-master's only motive, in preserving the order for a short time, was, lest, in the course of twenty-four or forty-eight hours, he might be called on by his government to show why he had afforded facilities to any particular parties who might have passed through the country. If, as had been stated, all those orders were preserved, the whole library of the Vatican would not contain them in a very short time, so great a number of foreigners were continually passing through Italy. The case therefore resolved itself into this—whether it was absolutely necessary that the evidence should be given in the shape of a document? If it existed, it could not be suspected that such a document would not be readily produced: if it did not exist, he could see no reason for refusing parole evidence of its contents.

The Earl of Lauderdale said, the practice throughout Europe was, to send the passport to the post-house, for the purpose of having the order made out from it. He must contend, that, before it was established that such

a document was tantamount to a passport, evidence that no passport had existed should be given: for this, he believed, was the only case where an order for post-horses was granted without a passport being previously exhibited. The thing, he thought, was impossible; and he conceived they ought to have a preliminary examination, in order to ascertain that fact.

The Marquis of Lansdown observed, that the view in which he understood the learned counsel to ask their lordships for liberty to give evidence of the passport, was in order to show the style and character in which the party travelled—a fact set forth in that document, which had been signed by the Cardinal Secretary of State. As to the question, whether all persons, wanting post-horses, must exhibit a passport, the noble earl would find that the practice varied in different states, and even in the same state, at different times.

Lord Ellenborough was of opinion, either that the original document should be produced, or that evidence should be given, in the first instance, of its destruction.

Lord Erskine said, as he understood the subject, it appeared that the evidence which was sought to be given went to this point—namely, whether Cardinal Gonsalvi, in a certain paper signed by him, treated the Queen of England with due respect? Whether he did or did not deny to her that honour which she had a right to claim? Now it appeared to him quite imposssible that this could be shown by the production of an order for post-horses. Where was it to be had? In the courts here, an original copy, an office copy, or an examined copy of a document, might, according to the case, be procured. But what would one think if a post-master were asked for an office copy or an examined copy of this order? The question was, whether this was not a point that might be filled up by some examination? If, by any diligence of that kind, the difficulty could be removed, he conceived their lordships ought to allow it.

The Lord-Chancellor conceived that the suggestion of his learned friend, if agreed to, might create considerable inconvenience.

The Earl of Liverpool wished to say one word, without any desire to provoke discussion. He alluded to the second part of the objection, which was connected with the relevancy of the matter meant to be proved in evidence.

to the case now before them. He would ask how that matter could, in any point of view, bear on the present case, unless they could connect the circumstance referred to with the government of this country? How the conduct of the Pope or Cardinal of the court of Rome, as to the treatment they had given her Majesty, if that treatment were not connected with this government, could be considered as affecting this question, he could not perceive. He really thought the conduct of those individuals had nothing to do with the subject under consideration. He stated this, not as an objection on his part—for he was anxious to raise as few of those objections as possible—but he merely threw it out as a suggestion for the consideration of others.

The Marquis of Lansdown differed in opinion from the noble earl who had just sat down. He thought it would be most material to the Queen's case that the point in question should be proved. The noble earl stated, that it could be of no consequence if the conspiracy, of which it was said to form one indication, was not brought home to this country. But this was not a correct view of the circumstance. There might be a conspiracy formed in anther country against her Majesty the Queen, and its result might be the preferring of these very charges; although, at the same time, this government might not be at all privy to the existence of such conspiracy. He maintained that it would be material for her Majesty to prove a circumstance of this nature. Would their lordships refuse to hear evidence of such a conspiracy, because counsel at the bar stated that he could not bring it home to this government? Would they reject evidence when counsel stated that he had the means of proving a conspiracy against the Queen in another country, which at a subsequent period was adopted by this government, because he could not bring its origin and growth home to them? What he understood the counsel at the bar to say was, that he could connect this conduct of Cardinal Gonsalvi towards the Queen with an application made to him by the Hanoverian minister, and that he believed this application formed part of a conspiracy, or something like a conspiracy, to degrade her Majesty's character. It was right, therefore, he thought, to go into proof of the fact.

The Lord-Chancellor said he would not press their lordships to refer the question to the learned judges.

He remained of the same opinion that he had originally advanced; and as he was extremely desirous to stand right with their lordships, he would re-state what that opinion was. His idea was, that, if an order for post-horses be written, its contents could not be proved by parole evidence, unless testimony was given that it had been destroyed, or that it had been refused, after proper application was made for its production.—Here the examination was resumed.

When you saw the Queen at Rome, upon the late occasion to which the question has alluded, did you see Bergami?—Several times.

Did you see Bergami as well in the presence of the Queen as when she was not there?—Yes, several times.

In the demeanour of the Queen towards Bergami, or of Bergami towards the Queen, did you see any thing in any degree indecorous or improper?—Not in the least.

In what manner did Bergami conduct himself towards the Queen upon the occasions when you saw them together?—With the most marked attention, and, generally speaking, as one should expect, what he ought; he did every thing which he ought to do, as it appeared to me, nothing singular or particular.

Was the Countess Oldi in attendance upon the Queen at Rome at this time?—The last time, certainly not.

Had you seen her previously?—Twice; whilst I was in waiting at Rome the Countess Oldi was lady-in-waiting to the Princess.

During what length of time was the Countess of Oldi in attendance upon the Princess when you were?—At the Villa Brandi alone, three months.

Had you an opportunity of judging of the conduct and demeanour and manners of the Countess Oldi?—Yes, I had a very good opportunity, for I generally sat next her every day at dinner.

Is the Countess Oldi a person of low and vulgar manners?—Certainly not.

What is the appearance and demeanour of the countess?—A very decent, rather good-looking, respectable modest lady.

Upon any occasion when Bergami has come to see you, or you have seen him, when the Queen has not been present, what has his conduct and demeanour been towards you, as to manner?—I should say, on all occasions rather more respectful than was necessary; he generally required to be pressed to sit down; that sort of behaviour.

You have been for some time in Italy?—I have been, at different times, almost ever since the Queen first went abroad.

According to the habits of that country, is it an unusual circumstance for men-servants to go into a bed-room while the ladies are still in bed?—I believe not at all uncommon; I believe it is very usual.

Do you know the Baron Ompteda?—Yes, I do.

Have you known yourself, of your own knowledge, of his dining with the Queen, when Princess of Wales, at Naples?—Certainly; I have met him at the Princess's table at dinner.

Once, or more than once?—I cannot remember more than once at this moment, I mean at her table; I have met him at other tables.

You have been in the East, have you not?—I have.

Have you been in the habit of seeing a Moorish dance in the eastern *countries*?—Not only in the East, but in Spain and Portugal.

Mr. Parke objected to any question relative to the mode of dancing adopted in foreign countries.

The Lord-Chancellor.—I see no objection to a question which tends to show that a particular dance exists. The fact must afterwards be contrasted with that which has been previously given in evidence.

Mr. Williams resumed. Will you describe this dance generally, if you can do so?

The Lord-Chancellor.—Recollect, Mr. Williams, that Sir William Gell has got the gout.

Can you give any deſcription, verbally, of the manner in which it is uſually performed?—I believe every body in London has ſeen the Spaniſh Bolero dance on the theatre; it is ſomething like that; in one part of the exhibition the two performers run up together, ſometimes in an attitude of defiance, and ſometimes in an amorous attitude; the ſame dance prevails over all the South of Europe, and every body ſees it without making any remarks upon it, ladies and gentlemen, from Madrid to, I believe, China; and people may ſee it both in Rome and Naples.

During the time that you were at Naples in attendance upon the Princeſs, were there many families in the habit of viſiting her?—A great many; every body that was there, I believe.

The Neapolitan nobility?—All the Neapolitan nobility, and all the Engliſh nobility that were there.

Can you tell whether the Engliſh nobility, of which you have been ſpeaking, were preſented, or attended at the court of the then King of Naples, Joachim?—I believe every one, without exception.

Name any of thoſe who were in the habit of attending either the court or the balls of Murat, or hunting parties, or any of his entertainments?—The Marquis of Sligo, the Marquis of Conyngham, the Marchioneſs Conyngham, Lord and Lady Oxford, Lord and Lady Holland, and many others; Lord and Lady Llandaff, Lady Elizabeth Forbes.

And many others that you do not remember?—Yes; I can remember them in a little time: but every body that was there.

Was it there or at Genoa that Lord Exmouth dined with the Princeſs?—I do not know any thing of Lord Exmouth.

When you were at Rome, upon the laſt occaſion, do you know whether Bergami was received in the families of the Roman nobility?—That I do not know at all, I do not believe that he ever went out.

Croſs-examined by *Mr. Parke.*—How long were you at Rome the laſt time you were there?—A few days only.

How long were you in attendance on her Royal Highneſs at Rome, after her return from the long voyage?—The whole time ſhe was there; I do not recollect how long.

How many weeks was it, or how many days?—I ſhould think a very few days.

You are underſtood to ſay, that after the expiration of thoſe few days you quitted and went to Naples?—Yes, I asked leave of the Princeſs, and went to Naples.

You are underſtood to ſay you accompanied her Royal Highneſs when ſhe firſt went to Naples, and formed part of her ſuite?—I did,

Where you with her when ſhe arrived at Naples?—I was.

What time of the day was it?—It was in the evening.

Was it late in the evening?—No, not late in the evening, it was daylight; *about ſun-ſet I ſhould ſay.*

You ſay there was a garden behind the houſe where ſome workmen were employed?—There was.

Did you yourſelf ever ſee the Princeſs walking in that garden?—Yes.

Did you ever ſee Bergami walking in that garden?—Yes, I did one morning.

Was the Princeſs there at the time?—She was.

Were they walking on the terrace?—They were.

How near was Bergami to the Princeſs?—About as near as I may be to you, about five feet.

Was he walking at the ſame time with her?—Yes.

How long did you ſee them walking together on the terrace?—Scarcely half a minute.

Where were you at the time you ſaw them?—I was in another wing of the houſe.

Did you ſee any body elſe in the garden at the time?—Nobody but a man who was nailing up certain trees that had fallen across the path.

You were at the maſquerade with the Princeſs at a houſe of the King?—I was at a maſquerade, and was in waiting.

Were you there the whole time?—I was there the whole time, and very much fatigued with it.

Did you ſee Bergami there?—I believe I ſaw him there with the reſt of the ſervants.

Where were the ſervants; what were they doing when you ſaw them?—They were generally waiting upon the company; handing ices, ſweetmeats, and other things.

You did not ſee him there at any other time than with the reſt of the ſervants?—No, I do not recollect that I did.

Did you ſee her Royal Highneſs when ſhe was in a Turkiſh dreſs?—I believe I did, but I have not a very diſtinct remembrance of it.

When you ſaw her in a Turkiſh dreſs, did you ſee any other perſons dreſſed as Turks?—I believe there were a great many people dreſſed as Turks in the maſquerade.

Was ſhe by herſelf at that time, or forming part of a groupe when you ſaw her?—That it is really impoſſible to ſay at a maſquerade, it appears to me.

You cannot recollect whether you ſaw her alone, or with a groupe of Turks?—No, I really cannot.

Did you attend her Royal Highneſs up-ſtairs when ſhe changed her dreſſes?—I was once with her up-ſtairs in the courſe of the evening.

Did you accompany her down afterwards?—I ſhould hardly think I did; I might come down the ſtairs with her, but not handing her.

Do you recollect in what character ſhe was at that time?—No, that I really do not.

Examined by the Lords.

Lord Erskine.—You have ſaid, that notwithſtanding the opportunities you have deſcribed of obſervation, you never ſaw any impropriety whatſoever in the conduct of her Royal Highneſs, or of Bergami and her Royal Highneſs towards each other?—No, never on any occaſion.

Suppoſing it had been true that there was a criminal intercourſe between her Royal Highneſs and Bergami, and that Bergami had acquired a complete dominion over the mind and body of this illuſtrious Princeſs, do you think it probable you ſhould have obſerved nothing that gave you an indication of that kind?

The Solicitor-General, with the greatest possible *deference, objected* to the question.

Lord Erskine.—The question I think might be put in any court of justice; but if the learned counsel wishes it not to be put, I will not put it.

The Solicitor-General.—I have no wish but to do my duty, and with all deference and submission I objected that the question was not legal.

Lord Erskine.—I think it very material that the learned counsel should have made the objection, and I will allow him all the benefit of it.

Lord Ellenborough.—Did you ever obſerve any thing in the conduct of the Princeſs of Wales towards Bergami, in her conduct, manners, converſation, or looks, to induce you to entertain an idea that there was an adulterous intercourſe between them?—Upon my honour I never ſaw the Princeſs ſpeak to Bergami but on matters of buſineſs, though I was in the houſe for three months at once with them.

Can you give a more diſtinct anſwer to that queſtion?—I never did.

Was there any thing in the manners of Bergami which made it diſagreeable to you as a gentleman to ſhare with him the duties of chamberlain?—Quite on the contrary; he was remarkably attentive to me, and would have handed me down ſtairs with candles if I would have let him; I was obliged to explain to him that it hurried me, being lame, and to requeſt he would let it alone.

Do you conſider that that conduct, on the part of Bergami, was the conduct of a gentleman?—Perfectly ſo to me.

Did Bergami, while you were in the ſervice of her Royal Highneſs, take more than a fair ſhare of the duties of chamberlain?—Certainly not.

Did you obſerve any thing in the conduct of Bergami towards the Princeſs, which would have been different from the conduct of any Engliſh chamberlain?—Nothing, but that he was more attentive.

The Earl of Darnly.—Can you ſtate to the House whether, in point of fact, orders for poſt-horſes are preſerved or not?—I really do not know whether they are preſerved, they are given before you ſet out from the city; as for inſtance, from Rome an order for poſt-horſes is, I believe, equivalent to a paſſport, as in the caſe of the Queen; that order is delivered to the poſt-maſter, who without it would give you no horſes at all; conſequently the paſsport is of no uſe till you have obtained that order.

Have you not every reaſon to believe that the order for poſt-horſes, which has been referred to, would not be in any caſe forthcoming?—From what I know of the Roman government I am perfectly convinced it would not be forthcoming, but that is merely from private information, knowing how that order for post-horſes was got up.

The Earl of Darnley submitted that ſufficient ground had not been laid for requiring the post-horse order.

The Earl of Liverpool.—Are you aware, or do you now know the fact of Bergami being or not being a married man?—I believe he is a married man, I do not know it.

Do you mean to ſay that is your preſent belief, or that was your belief when Bergami was originally placed in the ſervice of her Majeſty?—I believe ſomebody told me ſo at the time, I am not ſure whether it is correct or not.

Have you not ſeen a child that has been with the Queen of the name of Victorine?—I have.

Do you *not know that ſhe* was the daughter of Bergami?—She was

called the daughter of Bergami, but whether ſhe was the daughter of Bergami, or not, I do not know.

On the return of the Princeſs from the Opera at Naples to her own houſe on the ſecond night ſhe was at Naples, do you know whether ſhe retired to her chamber immediately, or where ſhe went?—Her Royal Highneſs retired to her own chamber; I was in waiting, ſhut the door, having made my bow, and went out; I believe her Royal Highneſs went to bed immediately.

Earl Bathurſt.—You have ſaid you ſaw the Princeſs and Bergami walking on the terrace, and that there were alſo workmen there; was that ſoon after your arrival at Naples?—I have ſaid before I am not quite clear as to the time, but I ſhould think not the earlier part.

The Earl of Enniſkiller.—What was the hour of the night that the Queen returned from the Opera, and that you left her at her chamber door?—It muſt have been towards one o'clock at the time ſhe got to her own door; very late indeed.

You deſcribed that the Queen was dreſſed in a robe reſembling a Grecian female, could that robe be put over any other dreſs ſhe had that night, without undreſſing?—Not only it muſt have been ſo, but I have a clear recollection of the dreſs her Majeſty had on under it, a dreſs perfectly plain, that came up to the neck, was very ſhort, and had no train.

The Earl of Lauderdale.—Did you attend the Princeſs of Wales to the Villa Brandi and Ruffinelli?—I was with the Princeſs of Wales perhaps three days at Ruffinelli; I then came back to Rome, and attended her to the Villa Brandi, where I ſtaid with her all the time ſhe was there, being about three months.

Do you remember the date of the Princeſs of Wales being at Ruffinelli and the Villa Brandi?—It was at that time ſhe was at Rome, about the year 1817.

Can you ſtate about what months of that year?—I think I can, about the months June, July, and Auguſt.

Do you remember whether Louis Bergami was there?—He certainly was ſome part of the time.

Do you remember whether any other perſons of Bergami's family were at Ruffinelli or Brandi?—There was the Counteſs Oldi, who I underſtood was his ſiſter.

Do you remember any other?—I really do not at this moment.

Was there another ſiſter, named Fauſtina?—Not that I ever heard of.

You never ſaw her?—I never ſaw her, knowing her to be either Fauſtina or his ſiſter, certainly.

Did Louis Bergami dine at table at the Villa Brandi?—Sometimes he did.

At the table with the Princeſs?—At the ſame table.

Did you ever ſee Bergami's mother?—Never to my knowledge.

You do not remember having ſeen in the Princeſs's ſervice any other members of that family but Louis and the Counteſs Oldi?—I do not remember any others.

Did you yourſelf obſerve whether the ſhort dreſs her Royal Highneſs wore when ſhe had that of a Grecian female was on her Royal Highneſs in the firſt character ſhe aſſumed?—It was impoſſible; it was only by being in the paſſage cloſe to the door, when the door was opened, I ſaw the Princeſs in that ſhort dreſs upon which ſhe fixed, as I imagined, and indeed as I am certain all her other dreſſes.

You are certain that the firſt dreſs her Royal Highneſs wore was over that ſhort dreſs?—It could be no otherwiſe.

The question refers to that under-dress you speak of, coming up high, but as without a train, which you mentioned as being under the dress her Royal Highness wore when she assumed the character of a Grecian female; did you yourself know that her Royal Highness wore that short dress during the first character she assumed?—It must have been so, for it was a dress made on purpose for that; I saw her immediately before she went down as a Grecian female, it was impossible that she could have had time to take it off, before she appeared as a Grecian female.

Where did Bergami sit at table, when you were at table with him?—I think generally somewhere on the left hand of her Royal Highness.

Did he sit next to her Royal Highness, or at a distance from her Royal Highness?—Sometimes next to her, and sometimes at a distance.

When you were at the same table?—When I was at the same table.

Did you sit on the opposite side of her Royal Highness, or where?—I generally sat, if there was no company, on the right hand side of her Royal Highness.

And Bergami on the left?—Bergami sometimes the next to her on the left hand, and sometimes round the corner of the table; it was a square table.

When other company were present, did Bergami continue to occupy that place?—That was just as it happened, sometimes yes and sometimes no, according to the rank of the people.

A Peer.—You have stated that Louis Bergami has dined at table when you were present, how often may that circumstance have occurred?—It has occurred several times, but sometimes he was on business of her Royal Highness, and then he was absent from home; when he was at home, I believe he generally dined there.

What situation did Louis Bergami hold in the establishment of her Royal Highness at that time?—I believe he was her Royal Highness's equerry at that moment.

Where might Louis Bergami sit upon the occasion, when he had so formed part of the company?—I think generally at the other end of the table.

The Lord-Chancellor at the request of the Solicitor-General.—When her Royal Highness appeared in a Turkish dress, did she or did she not wear trowsers?—I happen to know what those trowsers were; she did wear trowsers, made in the form of Turkish trowsers; I beg to explain what they are, the trowsers that her Royal Highness wore are very much like a common petticoat sewed slightly together between the legs at the bottom, such as are commonly worn in the Levant.

The Lord-Chancellor at the request of Mr. Williams.—Could the terrace of which you have made mention, on which the Queen and Bergami were once seen walking, be seen from surrounding houses, as well as a great part of the house itself?—From every house in the neighbourhood.

Lord Brownlow.—On those occasions, when the Princess at the masquerade at Naples went up stairs to change her dress, do you know whether any attendant was there to assist in changing her dress, and if so, who was that attendant?—To say the truth, I believe she had a very great number of attendants; the door was opened and shut perpetually, and every body was in and out of her room.

Do you believe that Louisa Demont was one of those attendants?—I do not remember her, I *dare say* she was.

Do you believe that Bergami was there?

Mr. Brougham was unwilling to interpose, but he wished the question to be put, not as a matter of belief, but of actual knowledge.

Do you know whether Bergami was in attendance?—I do not.

Lord Falmouth.—You said that on one occasion you saw Bergami and the Queen walking together on the terrace. I wish to know whether they were arm in arm?

Mr. Brougham said, that the witness had already stated that they were not walking arm in arm, but one behind each other, as far distant as the witness and Mr. Parke.

Lord Falmouth would not press the question if it had been already answered.

The Earl of Lauderdale.—When you were at Ruffinelli, do you recollect Bergami being ill at any time?—No, I do not.

You were not at Ruffinelli all the time that the Princess staid there, were you?—No, I was not.

The witness was directed to withdraw, and the House adjourned.

FIFTH DAY.—October 7.

After the usual forms, the *Marquis of Lansdown* moved that the interpreters should be called to the bar, to verify the translation of M. Marrietti's correspondence.

The King's interpreter (the Marchese di Spineto), and the Queen's interpreter (Mr. Cohen), then appeared at the bar, and were sworn.

The Lord-Chancellor asked the interpreters what papers they had got.

The King's interpreter said he held in his hand translations of certain letters addressed to Giuseppe Marrietti.

The Lord-Chancellor.—Are these papers faithful translations, on which you have agreed?

The Interpreter.—They are correct to the best of our knowledge and abilities. We have compared the translations with the originals.

The translations were put in; and, on the motion of the *Marquis of Lansdown*, laid on the table.

The counsel were then called in.

The Earl of Liverpool thought that, before any new witness was examined, it would be proper to call Lady Charlotte Lindsay, for the purpose of learning whether she had found the letter she had received from her brother.

Mr. Brougham said that Lady Charlotte Lindsay was

nothen in attendance, but he expected that she would soon arrive, and might then be called.

WILLIAM CARRINGTON was then called in, and having been sworn, was examined by *Dr. Lushington*, as follows:—

In what situation of life are you?—I am Sir William Gell's valet.
How long have you been in that situation?—Nine years.
What were you before?—It was the first situation I had as a servant.
What situation were you in before?—I was in the navy.
In what capacity?—As midshipman.

The Lord-Chancellor desired Mr. Gurney, the short-hand-writer, to read over the questions and answers.

The Duke of Clarence thought it would save time if the shorthand-writer, instead of rising up, remained seated while he repeated the questions and answers.

Did you attend Sir William Gell the latter end of the year 1814, at Naples?—I did.
Did you live in the house of the Princess?—I did.
Do you remember Bergami coming into the service of the Princess?—I do.
In what capacity?—As courier.
Did his coming into the service of the Princess as courier excite any or what jealousy?—I never heard any.
Was there any thing said about it by the servants in the house, which referred to what the witness heard.

The question was waived.

Was there any jealousy after he came into that service?—I never saw any.
Do you remember the first night that you arrived at Naples?—Yes.
Do you reollect where Bergami slept that night?—I do.
Where was it?—It was in a small room over the steward's room.
Who was the steward?—Mr. Sicard.
Did he sleep in the same room the second night?—No, he did not.
Do you know the reason that he changed his room?—Because the room was so low that he could not stand up in it.
Do you remember the room to which he removed?—Yes, I do.
Do you know the Princess's room?—Yes, I do.
How near was the room to which Bergami removed to the room of the Princess?—It was about sixty feet.
Was there any other room between the Princess's room, and Bergami's room?—There was three rooms and a passage.
Can you tell who occupied those three rooms?—Yes, I can.
State them?—William Austin the first, Hieronimus the second, and Doctor Holland the third.
Are you to be understood that those three rooms intervened between the Princess's room and the room of Bergami?—Yes.
Did any of those three rooms open into the passage?—Yes.
Do you remember being at a masked ball at Naples?—I do.
A ball given by the Princess?—Yes.
Do you recollect the servants appearing in any particular dress?—No, I did not see them in any particular dress.
Did you yourself wait upon that occasion?—I did.

Did you travel in the suite of the Princess on the journey to Naples?—I did.

Do you remember Mr. William Austin?—I do.

Can you say where Mr. William Austin usually slept before you reached Naples?—He slept in a room by himself when there was room; when there was not, he sometimes slept in her Royal Highness's room.

Do you know a person of the name of Majochi?—I do.

Did you ever see this person at Ruffinelli?—I have.

Did you ever hear him mention the name of Ompteda?—I have.

What did you hear him say respecting Ompteda?

The Attorney-General objected to this question, and, the witness having withdrawn from the bar, proceeded to argue against it. The question was, whether the witness had heard Majochi say any thing respecting Baron Ompteda. He objected to any conversation between the witness and Majochi, with respect to a third person being taken as evidence. Whatever Majochi had said of Baron Ompteda could not be received as proof of any fact concerning that gentleman. Besides, he was not aware that Majochi had stated himself to have had any conversation with the present witness; and unless he had been asked whether he had had any conversation with W. Carrington relative to Baron Ompteda, no ground whatever was laid for the course of examination which he had interrupted. But, if even Majochi had been asked such a question, still any conversation between him and the witness relative to the Baron's conduct could prove nothing having any bearing on the case. In order, however, to justify the examination at all, he called upon his learned friends to show that Majochi had been asked whether he had had a conversation with Carrington, and had denied his having any.

The Solicitor-General thought it quite clear that the question could not be put. Nothing was more fully admitted than that a witness could not be examined on conversations relative to facts collateral to the inquiry; and if the object was to contradict the testimony of Majochi, it had not been stated what question had been put to Majochi which it was now wished to contradict. He apprehended that his learned friends were not entitled to refer to Majochi's evidence in a general way, but that they must point out the particular statement they meant to disprove.

Dr. Lushington trusted he should be able to satisfy their lordships that the question ought to be put. If he

understood the objection, it was twofold: first, that the proposed examination had reference to facts collateral to the inquiry; and, secondly, that supposing this not the case, that as no question had been put to Majochi as to a conversation with Carrington, no question could be asked the latter with regard to that circumstance. Now, as to the first point, nothing was more easy to show than that the subject of the proposed examination, instead of being collateral, had a direct and most important bearing on the inquiry. Was it possible to contend that, to ascertain the fact whether Ompteda had not acted as a spy on her Majesty, had suborned her servants, that he had broken locks, forced doors, in order to steal papers, with the view of fabricating charges to affect the character, the honour, and even the life of the Queen—shall it be said that an explanation to prove that fact is not relevant to——

Lord Redesdale interrupted the learned counsel, and moved that counsel do withdraw. The learned counsel had no right to pursue the course of examination he proposed. He could not impugn the conduct of Baron Ompteda by conversations which had passed between the witness and another person.

The Lord-Chancellor observed, that certainly that could not be done.

Lord Redesdale said the learned counsel was raising an argument on the subject of Baron Ompteda's conduct; but he had no right to impugn any individual's character on a conversation between the witness and a third person. If he was prepared to show by evidence that Baron Ompteda's conduct had been such as he described, let him bring it forward. But to take the course he proposed to pursue at present was to exceed those bounds of right and duty within which counsel ought to confine themselves.

Earl Grey wished to remind their lordships of the state of the case. The question which the learned counsel proposed to put had been objected to on two grounds: first, that it was collateral to the inquiry; and, secondly, that Majochi had not been asked whether he had any conversation with the witness Carrington. Now, if he understood the particular point to which the learned counsel was replying when he was interrupted, it was the first ground of objection. He was going on

to show that facts could not be regarded as collateral which related to the conduct of a person in breaking locks, suborning servants, and doing other acts with the view of affecting the character and honour of her Majesty in reference to this inquiry. The argument of the learned counsel was not that the conversation in question would be evidence against Ompteda, though it might contradict Majochi's testimony; but it was an answer to the assertion of the counsel on the other side, that the matter was collateral. It did not appear, therefore, that the noble and learned lord was justified in saying that the counsel had exceeded the bounds of right and duty.

Lord Redesdale explained. If evidence was to be obtained of what Majochi had said of Ompteda, it ought to be sought from Majochi, in the first instance, and not from the person with whom he had conversed.

The Lord-Chancellor would not enter into the argument, but he confessed that it was the first time in his life that he had witnessed an attempt to prove the conduct of a third person by a conversation which a former witness was alleged to have held with the witness under examination. Had Majochi been questioned as to what he had said to the present witness, it would have been a different matter. As things stood, it would be necessary to look back to what had been stated by Majochi on this subject.

The Earl of Lauderdale referred their lordships to several pages in the minutes, in which Majochi had been examined with respect to his intercourse with Baron Ompteda.

Lord Erskine rose to order, and suggested that the counsel at the bar should refer to the pages of the evidence.

The Earl of Lauderdale said that his noble and learned friend would not, perhaps, think him out of order when he knew on what account he referred to the evidence. He was of opinion that the question could be put. He wished to save her Majesty's counsel the trouble of doing that by argument which was already done by evidence. In the pages of the evidence to which his lordship had referred, it would be seen that Majochi was examined as to the imputed intrigues of Baron Ompteda, and asked particularly whether there was any talk

among the household of the Princess respecting the Baron.

Lord Erskine said his noble and learned friend was on the side which every impartial man must take; but still he thought it would be better to let the counsel go on with the argument.

Counsel were again called in.

Dr. Lushington said that, when their lordships interrupted him in the argument he was pursuing, he was about to add that he certainly never conceived that the declaration of Majochi could be evidence of what Ompteda had done, but that he meant to show that the conduct of Ompteda was not collateral, but a direct point in issue. He was going on to state circumstances which in a subsequent stage of the proceedings it might be necessary to prove, namely, that locks had been picked, that doors had been forced, and that plots had existed; because that proof would be the means of explaining part of the conduct of her Majesty which had been made a ground of imputation. It would, for instance, account for her taking care that some of her male attendants, in whom she could place confidence, should sleep near her—for her taking care to have always a person near her on whose fidelity she could depend. He contended that evidence for this purpose was admissible, as Majochi had thought fit to deny the existence of any plot whatever, and when examined at different times, had also denied all knowledge of any locks having been picked. His evidence was surely open to contradiction on these points. Their lordships would see, in page 63 of the printed minutes, (*Ch. p. 72.*) what answers he had given to questions about this Baron Ompteda. In the first place he said, "I do not remember the name." He was then asked—

"Did you ever during the year after the long voyage see a German Baron dining at her Royal Highness's at the Villa d'Este?—In the house Villani I saw him.

"Then you do know a certain German Baron who used to visit her Royal Highness?—He was a Prussian.

"What was his name like, as nearly as you can recollect?—I do not remember the name, because it was an extraordinary or unusual name, but he was called the Baron—Baron—Baron something."

After this evidence, was it not fit that her Majesty's counsel should be permitted to prove that Majochi knew this Baron's name: that he often spoke of him; that he

made his name and his deeds the subject of repeated conversations? He was further asked,

"Was there any thing happened in the Princess's family, any thing that made a noise in the family connected with this Baron, whatever his name was?—This I do not remember.

"During the time you were in the service of her Royal Highness at the Villa Villani, or the Villa d'Este, do you recollect any blacksmith or locksmith being examined there with respect to the picking of locks?—This I do not remember.

"Or about making false keys?—This I do not remember.

"You never heard of any such thing in the family while you were there?—This I do not remember to have heard; I do not remember it.

"Do you remember no quarrel taking place between Lieutenant Howman and this German Baron, while you were there?—I have heard that they had quarrelled together, but I do not know the cause of the quarrel."

[Then follows a long series of *Non mi ricordos* in answer to questions about the time when he heard of the quarrel.] If Majochi had denied seeing a person on his journey to Vienna, would it not be competent to prove that he had acknowledged seeing that person? He apprehended that it was perfectly open to him to show the contradiction in that witness's testimony without any contravention of the rules of evidence. The existence of the plot tended to explain and justify the conduct of her Majesty. The witness denied all knowledge of that plot. He contended that the testimony now offered did away with that part of the evidence, and left the case *rectus in curia*. He did not contend that he should establish any facts declared by Majochi. But if he proved that Majochi frequently talked of the plot, that in talking of it he sought to evince his courage as well as his fidelity, by saying of Ompteda, "If the Queen would permit me, I would kill him like a dog"—if he proved him to have said this, he did not say that he should prove the facts stated against Ompteda, but he should remove the impression which had been made in consequence of Majochi's perjury. The only objection which he conceived might reasonably be made to their doing so was, that it was a work of supererogation to attempt to detract from credit which no longer existed, for the evidence of Majochi was already completely destroyed.

Mr. Brougham said, that after the able arguments of his learned friend, little was left for him to add; but he

would merely remind the House of the purport of their defence: they did not contend that any thing said by Majochi regarding Ompteda was evidence in——

The Lord-Chancellor here interrupted the learned counsel, and said, that a great deal of time might have been saved if the counsel had stated the point to which his question tended. He might have asked as to the quarrel between Hownam and Ompteda, to which the witness, in his examination-in-chief, had declared his knowledge, but the cause of which he did not remember.

Mr. Brougham said, that there was perhaps a more important answer of Majochi than those his learned friend had pointed out. He had said he did not know what made him recollect the Baron's coming to Villa Villani. If, therefore, he could show that he must have known, he apprehended that it was quite open for him to do so. He was perfectly aware that he should be stopped in the question, for, whenever the name of Ompteda was mentioned, *per fas aut nefas*, an objection instantly came from the other side.

The Attorney-General objected to the style of his learned friend's argument, if argument it could be called, which consisted principally in assertion. He was not aware that any objection had been taken, whenever Baron Ompteda's name had been introduced, as to the propriety of introducing it. He believed it was a mere assertion of his learned friend to say so; but, if such objection had been taken, he doubted not it had been taken properly. He must oppose the manner in which his learned friend, Dr. Lushington, had argued the present question, because he had concluded it by stating, that it was a mere work of supererogation to shake Majochi's evidence any further, it being already clear to every body that Majochi was perjured. Such a decision was premature at present, and was one which it became their lordships only to make upon the conclusion of the case. He had never yet heard that a witness could be asked what another witness had said to him in the course of conversation, unless that witness had been first asked whether he had ever said it to him or not. Now, as to this particular question, he wished to say a few words. The question which had been asked Majochi was this—"Do you remember no quarrel taking place between Lieut. Hownam and this German Baron while you were

there?" and his answer was, "I have heard that they had quarrelled together, but I do not know the cause of the quarrel." Now his learned friends, in order to be able to obtain an answer to the question which they just had put to the witness, ought to have asked Majochi, "Have you ever stated to William Carrington that you did know the cause of this quarrel?" because, if they had asked Majochi that question, he might have been enabled to recollect the conversation, if it had taken place, and to explain the circumstances under which it had taken place; but not having asked Majochi that question, it was taking Majochi unawares to put the question that was now proposed to the present witness. He had heard it said by high legal authority, that the individual with whom a particular conversation had been held must be distinctly named to the witness before the other party could be allowed to bring forward the individual with whom the conversation had been held to contradict that witness. At page 140 in the minutes *(Ch. p. 133.)* it would be seen that the Lord-Chancellor had stated, "that it had been ruled in the Court of King's Bench that counsel ought, in the first instance, to name the person referred to, for that a person might merely state that he never had such conversation; but that, if put in mind of having been with a particular individual at a particular time, he might immediately recollect, and his former answer might be no slur upon that testimony." That rule, he apprehended, was sufficiently plain; and he called on the House to consider in what a situation witnesses, not merely in this case, but in all others, would be placed in the courts below, if that principle were now to be given up. No question had ever been put to Majochi whether he had ever made any declaration about the knowledge of the quarrel between Lieut. Hownam and Baron Ompteda to any person, much less whether he had ever made such a declaration to W. Carrington; and he (the Attorney-General) therefore apprehended that the objection which he had taken to the present question was perfectly well founded, and that no sufficient answer had been made to it by his learned friends on the other side. It was an assumption on the part of his learned friend to say that there had been a plot against her Majesty, and that Baron Ompteda had been at the bottom of it. They had made

great assertions upon that point; but as yet no proof had been offered to substantiate them. If it were a part of their case to prove the facts which had been alleged against Baron Ompteda, (whose memory, it appeared to him, from the knowledge he had of the matter, had been covered with the most unfounded slander and calumny,) they certainly might do so; but then they could not do it by offering what had passed in conversation with a third person. No evidence at all had been given relative to Baron Ompteda in the case for the bill: and it was, therefore, highly unfair to let it go forth from their lordships' bar that the slanders which had been promulgated against him had foundation in fact. The learned gentleman then concluded his argument by again repeating, that, in point of law, the question ought not to be put, and by imploring their lordships not to permit the witness to answer it.

Mr. Brougham denied that he had argued that the facts against Ompteda could be proved by a conversation.

The Attorney-General.—His learned friend had taken up the argument in the same way as it had been taken up by Dr. Lushington, and had stated that the manner in which he (Dr. Lushington) had argued it prevented him from saying more.

Mr. Brougham admitted that he had done so; but said he had added nothing to the argument of his learned friend.

The Lord-Chancellor viewed the question as being one of considerable importance. It was not to be forgotten that the authority which had been mentioned was met by other authorities on the same subject. The question, as he understood it, was this:—"Whether A. B., a witness, being called for the plaintiff in a case, and being asked if he knew of the cause of a quarrel between two individuals, and answering that he had heard of a quarrel, but did not know the cause of it; and on cross-examination not being asked whether he had made a declaration to C. D. regarding the cause, the question was, whether or not C. D. could be called to contradict him by proving the contrary, the witness not having been asked if he had held such conversation with that person." It would be extremely desirable that this question should be submitted to the judges, and, after they had advised, the House would be better able to decide the question.

Lord Erskine agreed with his noble and learned friend

in thinking that the whole course of examination which counsel now proposed to pursue must be built upon what Majochi had said in his former examination, but differed from him when he said that the present question appeared to him to be such as could not be allowed. He thought that her Majesty's counsel had a right in their questions not merely to refer to what Majochi formerly said, but with such commentaries as they might think the nature of his evidence required. Their lordships were to look in the minutes to what Majochi had previously stated. Counsel proposed to show, by a conversation which had taken place between Majochi and the witness, that what Majochi had there stated could not be true, and that he (Majochi) must have known at the time he stated it that it could not be true. In his idea, that line of examination was perfectly allowable. If, however, his noble and learned friend wished to have the point decided by the judges, he had no objection. The House, however, were the real judges of it; and it was for them to decide whether the question, on which so much discussion had arisen, should be put to the witness or not.

Mr. Brougham hoped their lordships would allow him simply to state what the proposition was.

The Attorney General objected to Mr. Brougham's being heard any further upon the subject, after having spoken to it so often before.

Mr. Brougham.—Past all doubt nothing that Majochi had said to this witness could be received as proof of anything that Ompteda had done. But Majochi having said, in answer to five or six questions on a particular point, *Non mi ricordo*, "I do not recollect," and to two questions "I do not know," he (Mr. Brougham) maintained that he was at liberty to ask of the present witness whether Majochi had not, by a conversation with him, shown that he was speaking falsely when he said so, he (Majochi) having mentioned circumstances to him (the witness) which proved that he must not only remember it in its general bearings, but also in its more particular details. He contended that he was at full liberty to show that those details were given in such a way, and were of such a nature, as could not easily be forgotten; and likewise that Majochi could not be ignorant that he told them to the witness, whom he was going to make tell them to *their* lordships. The rule of law, he apprehended, al-

lowed that a negative declaration to another person might be proved. It was not denied that if he had asked Majochi whether he had ever said to Wm. Carrington that he knew of the causes of quarrel between Lieut. Hownam and Baron Ompteda, he should have had a right to put the present question. Why had he that right? Merely to impeach the evidence of that witness. In this case, too, it was likewise evidence; because it was a full contradiction of what Majochi said: it proved that he did know the cause of quarrel, though he said that he did not. His learned friends argued, that by a previous decision, in page 140 of the minutes, *(Ch. p. 133.)* a general question could not be put; and it was said that one of their lordships had referred to the practice of the Court of King's Bench, in which you could not examine one witness to what another had said without asking him whether he had ever said such and such things to him in conversation. But though this had been said by some of the learned judges, it had never been ruled by them in the King's Bench; but even if it had been so ruled, it should be considered that their lordships had precedents in their own House to go by. They would find one not only in the case of the Duchess of Kingston, but also in the case of Elizabeth Canning—which, by-the-by, had been tried at the Old Bailey, by a very learned judge—and there they would find that they had not considered themselves tied down by the rule of the King's Bench. They (her Majesty's counsel) wished the question not to be decided in the general manner in which it had been put by his lordship: they wished that it should be put in this manner:—Whether a witness, having sworn that he did not know a circumstance to which he was examined, the counsel were not allowed to prove, by declarations from his own mouth, that he did know it. Suppose that it had been a fact, and not a declaration, to which Majochi had sworn ignorance—suppose he had asked him, "Do you know whether A. B. had forged certain keys, and picked certain locks, at which you yourself was present, and for which A. B. was turned out?" and that he had replied, "I don't know any thing about the picking of the locks, the false keys, or the turning out," should he (Mr. Brougham) not be allowed to show that he (Majochi) had been bodily present, and had seen the person turned out, and that, therefore, he must have known all about it: that *he could not* have forgotten it; and, in

consequence, when he said he had forgotten it, that he must be speaking an untruth? The mode proposed was, indeed, a different mode of showing that he had sworn falsely; but it was still stronger as the declaration came out of his mouth. He had only to say, that, even supposing the law of the case to be decided against them, the decision would be a novel one. Would they then, considering that they had come to this trial in full ignorance of the case, and the witnesses who were to be called against them, prevent them from putting a question, for which, if they had laid a ground in their previous examination, it was admitted, "*ex consensu omnium,*" that they would have a right to put? If they did prevent them, it would be peculiarly hard that he should be shut out from the opportunity of establishing a contradiction, because, in the cross-examination of the witnesses, he had happened to omit one particular question.

The Attorney-General said, that he should only be trespassing on their lordships' time if he replied at any length to what had been so fully stated by his learned friends on the other side. He had already answered it, and he thought their lordships would not be better satisfied if he were to repeat it. But, to come to the evidence, the witness had been asked, if, while he was in the house, a quarrel had not taken place between a certain baron and Lieut. Hownam; to which he answered, that he had heard of a quarrel, but that he did not know the cause. Now they say they can prove that he did know it; and they propose to prove his knowledge by a conversation which he had with this witness some years ago. But he said that they could not, in fairness to the witness, and by the rule of law, be permitted to prove that conversation, because they had not at the time of his examination called such conversation to his mind. He was much surprised that the experience and acuteness of discernment by which his learned friend was so particularly distinguished should have allowed him to argue as he had done. A fact and a conversation were totally different things: a conversation he might explain; a fact he could not. The point here was a declaration said to have been made by Majochi; and he would contend that such a declaration could not be brought forward to invalidate his testimony, as Majochi had not previously denied the conversation to which such a declaration was said to have *been made.* Had he been asked whether such a conver-

sation took place, there might have been some ground for the question; now, he apprehended, there was none at all: his learned friend had not laid the slightest foundation.

Lord Erskine put a case—that a witness had made a declaration, of which the counsel, at the time of the cross-examination, was not aware, and upon which he therefore could not examine, but that it afterwards came, in the course of the trial, to his knowledge: would it be said, that for that reason, in a court which was established for the discovery of truth, the truth should not be discovered? Above all, would it be said that such a circumstance should prevent the discovery of truth in a case of such paramount importance as the present? Whatever might be the opinion of the learned judges upon this question, he should still feel himself bound to act upon his own judgment. The fact now sought to be established was of too important a nature to be defeated by an objection so purely technical. If their lordships wished to avoid the embarrassment of a possible dissent from the decision of the learned judges, he saw no reason why Majochi might not be called again, and confronted with the other witness. This he had often seen done in the course of his practice: his remembrance might not perhaps now be of much avail, so long it was that he had had the honour of enjoying the rank he at present filled; but unless he was completely superannuated, he would not believe that questions were inadmissible which were calculated to elicit the truth. As a Peer of Parliament, he should certainly give his opinion that this evidence might be received.

The Lord-Chancellor thought the question could not be put, and repeated his former argument upon the subject. He did not pretend to say that it was not the practice to call up a witness in the manner in which his noble friend (Lord Erskine) had stated that Majochi could be examined. Neither would he pretend to say that Majochi could not be legally brought up, and the questions put to him—"Did you ever say so and so to Carrington? or did you not make such and such declarations?" The best course, in his opinion, was, to ascertain the practice of the courts below: and, in order to do that, he would shape the question to be put to the judges in the following manner—1st. If in the courts below a witness examined in chief on the *part of* the plaintiff being asked,

whether he remembered a quarrel taking place between A. and B., answered that he heard of a quarrel between them, but he did not know the cause of it; and such witness was not asked, upon his cross-examination, whether he had or had not made a declaration, stated in the question, touching the cause of it; and, in the progress of the defence, the counsel for the defendant proposed to examine a witness to prove that the other witness had made such a declaration to him, touching the cause of such quarrel, in order to prove his knowledge of the cause of the quarrel, according to the practice of the courts below, would such proof be received?—2dly. If in the courts below a witness examined in chief on the part of the plaintiff being asked, whether he remembered a quarrel taking place between A. and B., answered, that he did not remember it, and such witness was not asked, on his cross-examination, whether he had or had not made a declaration stated in the question respecting such quarrel; and in the progress of the defence the counsel for the defendant proposed to examine a witness to prove that the other witness had made such a declaration, in order to prove that he must remember it; according to the practice of the courts below would such proof be received? He did not mean to say that he had no opinion of his own upon this question, but he wished to ascertain the opinion of the learned judges.

Earl Grey said, that even if the opinion of the learned judges should be against them, he should wish, for the sake of justice, that the question should be put. The noble lord on the woolsack had suggested a mode of proceeding which would save time, and get rid of the present difficulty, which had arisen from an omission in the examination of Majochi. Majochi might now be called in and asked, "Did you hold any conversation with Carrington about Baron Ompteda?" If this could be done, it would be the most convenient mode of proceeding.

The Earl of Liverpool had no objection to the production of Majochi; but thought that, if the judges were applied to, the House ought to adopt the opinion of the judges. It would be much better to continue in that course of proceeding which they had followed since the commencement of the investigation; for though it had been said that they ought not to decide upon the opinion of the judges, but upon their own (which he admitted to *be correct)*, yet he thought they could not do better than

avail themselves of their great legal knowledge in the decision of the present question.

Lord Erskine was understood to say that he never meant to assert that, if the opinion of the judges were in the negative on the questions, the House ought to neglect it. He merely meant to express his own dissent from it.

The Marquis of Lansdown thought the better way would be to ask counsel on both sides whether they had any objection to Majochi's being called.

The Earl of Lauderdale thought that the party could not be called up and asked this question, without its being open to the counsel on the other side to re-examine him. It was very possible that he spoke to Carrington with regard to what he had himself heard; and it was very proper to ascertain that point before he was called up. The contrary course, he thought, would be in contradiction to common sense.

The Lord-Chancellor understood the commands of the House to be, that the counsel on both sides should be asked whether they objected to Majochi's being called up, and having the question put to him in a form agreed upon.—After a pause of a few seconds,

The Attorney-General addressed their lordships. He felt in a very awkward situation, and he would tell the House why. Their lordships would recollect that Majochi had been already examined three times in the course of one day. The option was given to his learned friends whether they would proceed then or not with any further re-examination. They had declined doing so, and had preferred the delay which had taken place, in order to open their case. If they suffered the proposed course to be taken in this case, knowing as they did the law upon the subject, it was their lordships' duty to be prepared for the consequences. If it were done in this case, it might be done with respect to every witness at their lordships' bar.

The Lord-Chancellor here interrupted the Attorney-General. He did not apprehend that the House wished the learned gentleman to argue the case; but were desirous that he should state simply, as he was perfectly authorized to do, whether or no he withheld his consent.

The Attorney-General, after what had passed, did not think himself authorized to give his consent.

The judges then retired on the consideration of the question.

Mr. Brougham proposed, in the mean time, that another witness should be called in for the purpose of re-examination.

This being agreed to,

The Right Hon. *Lady Charlotte Lindsay* was again called in, and further examined, as follows:—

A Peer.—Has your ladyship searched for that letter referred to yesterday?—Yes, I have.

Have you been able to find it?—No, I have not been able to find it.

Do you believe it not to be in existence?—I believe it not to be in existence.

Have you any reason to think that it can be elsewhere but in your own possession?—No, I have no reason to think it; I have not a positive recollection of having destroyed it, but I have no reason to believe that I did not destroy it.

The Earl of Lauderdale.—Can your ladyship state the grounds of your brother's request as made in that letter?

Mr. Brougham submitted, with deference, that this was a letter to the witness; and that they were now going to examine her as to the contents of that letter.

The Lord-Chancellor had already stated his opinion. He understood Lady Charlotte Lindsay to have said that she was requested by her brother, the Earl of Guilford, to leave the service of her Royal Highness; and that that request was contained in a letter. Now he conceived, to the extent of asking Lady Charlotte Lindsay what were the terms in which that request was put, there could be no objection. Whether the question was intended to be carried further or not, he did not know.

Mr. Brougham begged his lordship's pardon, but supposed he had misunderstood the question (which was read over by the shorthand-writer).

The Earl of Lauderdale contended that they could not refuse to put this question. He asked their lordships whether, if Demont's letter had not been in existence, it would not have been competent to examine her as to the contents of that letter?

The question was proposed: and the witness said—I have no distinct recollection of any thing contained in that letter, except his request and advice that I should resign my situation, and some pecuniary arrangements that were to take place between us.

Does your ladyship's recollection lead you to think that the advice was given without any cause assigned?

Mr. Brougham prayed leave to submit, through the House, whether the terms of this question were correct.

The Earl of Lauderdale then asked:—Can your ladyship say whether your brother gave his advice without assigning any cause for that advice?—I do not remember in that letter his assigning the cause, but

I have some indistinct idea that the reports I before alluded to might have been mentioned in that letter, but I cannot positively say.

What reports does your ladyship allude to?—Reports that I mentioned in answer to a question put to me yesterday by a noble lord, reports of an unpleasant and degrading nature that had influenced me in resigning my situation.

Her ladyship withdrew.

The Lord-Chancellor.—Have you any other witnesses to call?

Mr. Brougham.—I will call John Whitcomb, if you please.

The Earl of Lauderdale objected to the examination of another witness proceeding in the absence of the judges, who ought to be present, the better to be enabled to consider any question arising out of the evidence, or the application of evidence, which might be referred to them.

Lord Holland thought that his noble friend entirely misunderstood the object of the presence of the learned judges. Difficulties were very properly and wisely propounded to them, under particular circumstances; and, with great wisdom, their assistance had been asked. They sat there for this reason—that questions might arise in their lordships' minds, upon the evidence given at the bar, which they might require the assistance of the judges in order to solve. These were questions of law, and of proceedings in law; and the judges ought, in his humble opinion, to dismiss entirely from their minds what evidence they might have heard at the bar, and strictly apply themselves to the dry question referred to them. Consequently, if, in the examination of a witness, difficulties should arise of this nature, their lordships were bound to put them to the judges in such a shape as should admit of no doubt or difficulty as to their import. It was in this way, he apprehended, that those learned and venerable persons were to perform their functions.

The Earl of Lauderdale explained. During the period of his attendance in that House, in all cases, the judges had been present, on similar occasions, while the evidence was being given.

Lord Holland thought, after the explanation of the noble lord, that the practice which was contended for was still more dangerous than he apprehended before. For his own part, not only did he not think that the evidence *stated at their lordships'* bar was to have any

bearing upon the minds of the judges, but he thought that the questions argued at that bar ought never to be referred to them. They were not to give an opinion upon the arguments of counsel; they were to state points of law, and the construction of acts of Parliament; and their assistance was intended for the preservation of their lordships' own character, and importance, and dignity. The applications and references to be made to them by their lordships ought to be so framed as to bring out the clear opinion of the judges upon them, but still with as little reference as possible to the proceeding or the evidence before the House; so that in fact it became their lordships rather to exercise their ingenuity in so framing them, as to hide their connexion with such proceeding or evidence. He really thought that, instead of the judges sitting, as they now did, upon the woolsack, it would be just as well in effect, and perhaps more consistent with strict legal propriety, if they gave the House the benefit of their aid in an adjoining chamber; so that any matter to be put to them must necessarily be exempt from the influence of any evidence, or of the discussions sustained by learned counsel. He thought it would be loss of time not to proceed with the examination of witnesses, when the question was so long under consideration by the judges.

The Earl of Liverpool would say a few words, because they were now adopting a mode different from that of their former proceedings. With respect to any doubts connected with those proceedings, which might (but which, he trusted, would not) arise, those he should desire to refer to the learned judges; and upon points of such importance he should certainly support the propriety of postponing the hearing of further evidence until they were solved. Evidence, he thought, the judges were entitled to hear; and he conceived that the hearing of it must enable them to give a more just and comprehensive opinion upon any question arising upon it, and referred to them. Under the present circumstances, however, he had no objection that they should proceed with the evidence unless any doubts of that material character he had mentioned should arise.

Lord Erskine thought that the proposition of the noble earl (Lauderdale) went much too far.

The Earl of Lauderdale's opinion remained unchanged.

JOHN WHITCOMBE was then called in, and having been sworn, was examined by *Mr. Tindal.*

In what situation of life are you?—Valet to the Honourable Keppel Craven.

How long have you been in that situation?—Upwards of six years, not quite seven.

Were you in his service at the time the Princess of Wales went to Naples?—Yes.

Do you recollect the first night of the arrival at Naples in what room Bergami slept?—No, I do not to be sure.

Have you ever seen the room in which he slept?—Not the first room, I never was in it.

Do you recollect the second room in which he slept?—Perfectly well.

Was there a passage at one end of it from that room to the room in which the Princess slept?—There was a passage led from one end of the house to the other, at the end of which Bergami slept, towards the terrace, the green-house rather, and the Princess slept at the front of the house, at the other end of the passage.

Do you recollect the room in which Mr. Austin slept?—He slept next to her Royal Highness.

Do you recollect the room in which Hieronimus slept?—He slept next to Mr. Austin.

What situation in the Princess's household did Hieronimus hold at that time?—He held the situation of page, as I understood.

Do you remember where Doctor Holland slept?—Doctor Holland slept in the room next to Hieronimus.

Did the three rooms which you have mentioned lie upon the side of the passage to which you have adverted?—Yes; all three.

Was there a door from the room of Hieronimus that opened into the passage?—Yes, there was.

Where did the door of Doctor Holland's room open?—To another passage that came towards the dining-room.

Was Doctor Holland's room at the corner of the two passages of which you are speaking?—It was.

Did the door of Doctor Holland's room open into the passage that turned into the first-mentioned passage?—Yes.

Was that door nearly opposite the door of Bergami's room?—Bergami's room did not open from that passage.

Do you remember where Mademoiselle Demont, the Princess's *femme de chambre*, slept?—She slept in another room over Doctor Holland, the stairs of which led from this passage.

Have you ever been in that room?—Yes, frequently.

Have you been in that room by night as well as by day?—Late as well as early.

At the time you have been in that room, has Mademoiselle Demont been there also?—Yes; she invited me, generally, to go there.

When you have been in the room, has there been any other person there besides yourself and Mademoiselle Demont?—There has been sometimes Preising (Annette we called her generally), but it was seldom she staid long when I was there.

Have you then been alone in the room with Demont?—Very frequently.

At the time you have been so alone with her, has the door been locked or not?—Locked and bolted.

The Solicitor-General objected to the last part of the

examination. It was impossible not to see the object for which the learned gentleman had put the last question; and that, he apprehended, was not an object which could be legally pursued by him. He supposed that it was unnecessary for him to argue the point.

Mr. Tindal.—We will not, then, push this matter any further, my lords.

The Lord-Chancellor.—Really you have pushed it already as far as you possibly could.

Mr. Denman said, if it were only the last question that was objected to, he had no reluctance to withdraw it.

The Solicitor-General observed, that the rest of the answers might stand, as they were immaterial.

Do you remember the masked ball that was given at Naples?—Perfectly well.

Were you in attendance upon that occasion?—I was not ordered to attend at the ball; I was in attendance on Mr. Craven; and for my own amusement in the house I walked about in the apartments any where I wished.

Do you recollect whether the servants of her Royal Highness were in the early part of the evening dressed in character?—Yes, they were; not all of them.

In what characters were those dressed who so appeared in character?—Sicard, Bergami, and Hieronimus were dressed something after the Turkish costume.

Was that in the early part of the evening?—In the early part of the evening.

Did they afterwards change those dresses for plain dresses?—Sicard and Hieronimus went home, and never returned afterwards that I know of; I never saw them afterwards.

Did you see Bergami afterwards?—I saw Bergami afterwards to the best of my recollection; he was dressed in plain clothes.

What was he doing?—Walking about with me, I met him frequently in the apartments walking.

Were there any refreshments handed about?—All the evening, during the night.

Did you or did you not see him amongst the other servants assisting?—I think I saw him once or twice carrying refreshments, lemonade, or something of that description.

Were you at Naples during the whole time the Princess was there?—All the time.

In what manner, according to your observation, did Bergami conduct himself towards the Princess?—The same as the rest of the servants; the same as we all did.

Cross-examined by the *Solicitor-General.*—Did you live in the house?—We lived in the house on our arrival in Naples for a few days.

For how many days, as nearly as you can recollect, did you remain in the house?—I should think three days, or four very likely; I am not certain to a day.

After that, you lived in the lodgings occupied by Mr. Keppel Craven?—Yes.

You have described a passage extending from the apartment occu-

pied by her Royal Highness to the apartment occupied by Bergami, that was so?—It was.

And in that passage there were three rooms, one occupied by Mr. William, another by Mr. Hieronimus, and another by Dr. Holland?—Yes.

Dr. Holland's being the corner?—Yes, the corner.

Was there not a passage that led from the dining-room, by Dr. Holland's room, into the passage which you first mentioned?—Yes.

In going along that passage would you leave Dr. Holland's room on the right?—On the right.

Was there not a door leading from Dr. Holland's room into that passage?—Yes, to the best of my recollection, there was.

And no door into the other passage?—I am not certain whether there was or not.

In going along that passage which had Dr. Holland's room on the right, was there not a small room on the left?—Yes, on the left.

Was that room which was on the left occupied?—No, I think not.

Beyond the room on the left, which you think was not occupied, and next to that room, was not that the room of Bergami?—Yes.

So that Bergami's room was at the end of the passage, which you have first described, and on the left hand at the end of the small passage which you have now described?—Yes.

Was there not a door leading from Bergami's room, into the passage which you have first described?—I am not certain to that; if it was there was a door that led to the passage, but whether there was any partition between that and Bergami's room, I am not certain.

You have described Bergami's room as being at the end of the passage you first described, was there any mode of going into Bergami's room from that passage?—Yes, there was.

By a door?—Yes.

You have described Bergami's room, as being towards the garden-side of the house?—It is.

Was it the corner room, or was there a small cabinet beyond it?—The corner room, to the best of my recollection.

Will you swear, that going from the passage you have just described into Bergami's room, there was not beyond it a small cabinet?—I cannot swear, but to the best of my recollection it was the corner room that looked into the garden.

You are not asked whether it looked into the garden, but whether there was not beyond it within a small cabinet?—I cannot be certain of it.

Was there not, in the passage which you have first described, near to the staircase that led up to the room occupied by Demont, a door?—There was a door that led to Hieronimus's room.

Opposite to the door, or nearly opposite the door that led to Hieronimus's room, was there not another door?—I am not sure of that, I cannot charge my memory with that.

Was there not, parallel with the passage which you have first described, and beyond it with reference to Hieronimus's room a second passage, leading from Bergami's room to the room occupied by the Princess?—There was a sort of inward room or passage, or something of that description; I do not know what it is called.

Was there not, near the foot of the staircase, a door from the passage you have first mentioned, leading into this communication, or passage, or whatever you call it, to which your attention has been

galled?—To the best of my recollection there was, but I cannot be certain of it.

Counsel at both sides now said they were done with this witness.

Lord Erskine said he had something to say to him, but for the present he must withdraw from the bar. The witness having withdrawn, the noble and learned lord said, that, before he proceeded to put some questions to the last witness, he begged particularly to call their lordships' attention to the matter out of which the questions he meant to put arose. For this purpose he should beg leave to read to them an extract from the evidence of Madame Demont, which was as follows:—

Where did you sleep in Naples?—In a small room over the passage where the other servants slept.

Did you sleep alone there?—Yes, I did, alone.

Every night alone?—Every night alone.

And the whole of every night?—Yes, the whole of every night.

And alone the whole night?—Alone the whole night.

Every part of a night, and the whole of every night, do you mean?—Yes.

All alone the whole night?—All alone.

She afterwards said she did not particularly know where any of the men-servants slept.

The noble and learned lord then desired that the witness might be recalled.

The Earl of Liverpool wished the noble and learned lord to state for what particular object—what precise question did he mean to put to the witness?

Lord Erskine replied, that he meant to ask him whether he spent any part of any night, or the whole of any night, in the room of Madame Demont, when she was there and in bed.

The Solicitor-General begged leave with all respect to say, that that question could not be put. When Madame Demont was examined, it was impossible not to foresee that the object of his learned friends, in putting certain questions to the witness, was either to insinuate or to prove that some person had slept with Demont. It was, he thought, a clear and undeniable point of law, that a witness could not be asked if she had committed an immoral act, or, if asked such a question, compelled to give an answer, if she objected to it. It was equally clear and incontrovertible, he thought, as a point of law, that if the witness thought proper to answer the question, and deny the fact attempted to be insinuated, that it would be incompetent for the party to negative her denial

by proof. If he were right in that position of law, which he thought incontrovertible, then he submitted to their lordships that they could not suffer that to be obtained circuitously, or by a side-wind, which could not be attempted openly and plainly. This he affirmed to be the undoubted construction of the law, as administered in the courts below. He stated it with the utmost possible submission to the noble and learned lord (Erskine), for whose experience, knowledge, and talents, he had a profound veneration. It was quite unnecessary to cite authorities to their lordships, for he felt he was stating a position which could not be shaken. The only consideration then for their lordships would be, whether they would suffer that to be done circuitously which could not be directly attempted without a violation of the forms of law.

Lord Erskine said he remained unconvinced that his question ought not to be put; for he thought not only that the question he was putting to this witness might have been put to Madame Demont, but also that she might have been legally asked whether he had ever slept with her. He affirmed that that might have been done. It was a course which he had himself often pursued at the King's bar; he had repeatedly asked a witness questions which went to show his criminality. He was perfectly ready to admit that the witness was not bound to answer; but if he answered, what reason was there to take that answer as conclusive, and not to be shaken by other testimony? He remembered that once, before Lord Ellenborough, he had insisted upon sifting such a question: it was objected to, and he tendered a bill of exceptions, which bill he was not under the necessity of arguing; it went to all the reason of the judges, and received the assent of the most eminent men at the bar whom he had consulted on the occasion. He had over and over again put such questions. He should state what passed in conversation between himself and Lord Ellenborough at the time. For that noble lord's learning and abilities he had ever entertained the greatest deference and respect. Suppose, said he (Lord Erskine) to Lord Ellenborough, that you had been taking a walk among the new improvements in the neighbourhood of Bloomsbury Square, and that some fellow dared to charge you with the commission of a crime, which, if proved, would justly degrade you in the eyes of the world. I know that *when the charge* was made, the first thing

you would do, perhaps, would be to send for me, to undertake your defence. Suppose that we had every reason to believe the fellow who made the charge to be a scoundrel false and wicked enough to make it with the view to extort money. The examination, we will suppose, commenced. I said to the fellow, "Who are you, Sir?—A captain of a ship. Of what ship?—Of a ship that has sailed abroad. Abroad! where?—She is gone to America. Look nearer to me, Sir; let me see, do I not recollect you? are you not the very man that I unsuccessfully defended once, on a charge of returning from transportation? He may, I know, object to answering this question and have all the credit of his refusal to answer it; but have I, or have I not, a right to put it? The judge may say, No, it can't be put; but, should your client be found guilty of the charge, you can then prove the witness to be the person you represent him, in a motion for a new trial." This, said Lord Erskine in a continuation, was the way in which he put the point to the late Lord Ellenborough: and he added at the time, what he felt still, that to deny him the course for which he contended, and point him out in the room of it such a remedy, was a mockery of justice, and most ruinous to the rights and liberties of the subject. Nothing, therefore, was so fatal to the public security, as the first position taken by the Solicitor-General. But, waving that altogether in this case, and referring to the witness Demont's evidence—she is asked, and she answers over and over again that she slept alone, during the whole and every part of the night in her chamber: she made no objection to answer; no objection was taken elsewhere: he had a right, therefore, to try the validity of the answers she had recorded, and to ascertain whether she had lain with any body else at the time when upon her oath she declared she had remained alone in her chamber. He concluded by asserting that he had a right to have the witness recalled, and asked if he was in Demont's room on any night when she was in bed there.

The Lord-Chancellor begged to state to the House what he knew of the practice in the courts below. When he first came into Westminster-hall, which was between 40 and 50 years ago, the constant practice of the judges was, when a question of a criminatory nature was put to a witness, to inform him that he was not bound to *answer the* question: that practice was, he understood,

of late years discontinued, and the more modern practice, as the rule was laid down in the text-books, was, that a question of the nature he alluded to might be put to a witness, though he was not compelled to answer, if he did not please. The rule also went further, for it was laid down, that if the question were asked and answered by a witness, the party asking it could not call evidence to contradict the answer given by the witness. This rule of law certainly put the witness in this singular situation —that, if he refuse to answer, an injurious suspicion is likely to attach to him; but it was clearly and positively laid down in *Phillips's Law of Evidence*, in the case of the King *v.* Watson, that if a witness has answered such a question, it is inadmissible to call proof either to contradict or discredit that answer. This was now, according to the text books, the clear and indisputable practice of the courts in Westminster-hall.

Lord Erskine said he could not concur in any practice which had the effect of shutting out evidence capable of throwing a light upon the testimony of a witness. Questions might still be shaped so as to sift the matter in controversy without violating the rules of evidence practised in the courts below.

The Earl of Liverpool said, that though he felt little interest in the way in which the point was decided, yet still he could not see how the House could sift this matter to the bottom by getting that answer from the last witness which it was evidently the object to elicit from him. Demont might be called again; and yet, notwithstanding this contradiction, she might be able to reconcile what the witness stated with the evidence she had herself previously given. She might say she had admitted this person to her chamber, and still persevere in saying she had never slept the whole, or any part, of a night with any body, for that was what her answer literally stated. How was it possible to go farther than this, if both witnesses were re-examined?

Lord Erskine said, that his object was merely to show a contradiction of the same fact in the testimony of these witnesses. He meant to go no farther.

Lord Redesdale said, that if the witness demurred to the question, it was impossible to carry it farther. Whether a man slept with her was certainly a different question from that which she had already answered.

The Earl of Lauderdale said, that where a disagree-

ment as to the mode of examining a witness occurred, the decision should always be vested in the wisdom of the judges.

The Lord-Chancellor said, that the construction evidently and plainly put upon the question answered by the witness Demont fully showed that the object with which it was put was to ascertain out of her own mouth whether she had been guilty of an immoral offence. She denies that fact; and in his opinion, speaking both judicially and as a peer, witnesses could not be called to contradict that denial.

The Marquis of Buckingham thought it of very great importance that the rules of law should be preserved unimpaired, and that at the same time all the facts should be elicited from witnesses. He thought that, where a doubt arose upon a question, it ought not to be put until the sense of the House was taken upon it.

The Lord-Chancellor said, he was quite sure his noble and learned friend (Lord Erskine) would not put a question until he saw that the sense of the House was with the propriety of putting it.

Lord Erskine replied, that he could not know how to anticipate the objections of the House; nor could he well say beforehand what precise questions he might put. It was obvious that his questions must, after the first, depend upon the answers of the witness, of which he could have no foreknowledge.

The witness was again called in.

Lord Erskine.—Where did you sleep in the house at Naples during the time you were there?—In a small room next the Honourable Keppel Craven.

Did you sleep there every night?—Every night during the time I was in the house.

Did you sleep in your room during the whole of every night?—I slept there after I went to bed; I was not in bed till 12 or 1 o'clock.

And you never went from your own bed to any other bed during the night?—No.

You after those three nights went into lodgings?—Yes.

Did you during the time you were in your lodgings, ever sleep in the house you had left?—I never slept in the Princess's house afterwards.

The Earl of Lauderdale.—You have been six years in Mr. Keppel Craven's service?—Yes, I have.

Where did you first enter into his service?—At Brandenburgh House, at Hammersmith.

Had you been abroad before?—No, never.

Do you remember the year in which you entered into Mr. Craven's service?—Not exactly.

Do you recollect the month of the year?—I have a memorandum *of the month and year*, but at present I do not recollect it.

But you are sure it was six years ago?—Yes, more than six, near seven.

Could you speak French or Italian when you entered into his service?—I spoke a little French, not Italian.

Did you speak French sufficiently to make yourself understood, and to understand others?—Yes.

Were you at Pesaro with Mr. Craven about a year ago?—Yes, about fifteen months since.

Do you recollect Bergami and Mr. Austin coming to Mr. Craven the day of his arrival?—Perfectly well, I was at dinner when they came.

Were you in the room at the time that Bergami came into Mr. Craven?—I showed Bergami into the room myself.

Did Bergami speak to you upon that occasion?—He spoke to me in coming up stairs.

Did he shake hands with you as an old friend?—He pressed my hand merely, as he ran up stairs, and walked on.

Lord Hood.—Were you ever in Demont's bed-room, after having gone into lodgings from the house at which you had first been?—Yes, frequently.

Have you seen any body else in Demont's bed-room?—No one, except Annette, to the best of my recollection.

The witness was directed to withdraw.—The learned judges being returned,

Lord Chief Justice Abbott said, my lords, the judges have considered the questions proposed to them by your lordships; one of those questions is in these words, "If in the courts below a witness examined in chief on the part of the plaintiff, being asked whether he remembered a quarrel taking place between A. and B., answered, that he heard of such quarrel between them, but he did not know the cause of it; and such witness was not asked upon his cross-examination, whether he had or had not made a declaration stated in the question touching the cause of it, and in the progress of the defence, the counsel for the defendant proposed to examine a witness to prove that the other witness had made such a declaration to him touching the cause of such quarrel, in order to prove his knowledge of the cause of the quarrel, according to the practice of the courts below, would such proof be received?"

The judges are of opinion, my lords, that this question must be answered by them in the negative. The question proposed to the witness upon his cross-examination is, do you remember? That question applies itself to the time of the examination, and many things may have taken place, and conversation may have been held upon them at one season, by persons of the strictest honour and integrity, which may at another season

be absent from their memory. It must be in the knowledge and experience of every man, that a slight hint or suggestion of some particular matter, connected with a subject, puts the faculties of the mind in motion, and raises up in the memory a long train of ideas connected with that subject, which until that hint or suggestion was given were wholly absent from it: for this reason, the proof that at a time past a witness has spoken on any subject, does not in our opinion lead to a legitimate conclusion that such witness, at the time of his examination, had that subject present in his memory: and to allow the proof of his former conversation to be adduced without first interrogating him to that conversation, and reminding him of it, would in many cases have an unfair effect upon him and upon his credit, and would deprive him of that reasonable protection which it is, in my opinion, the duty of every court to afford to every person who appears as a witness, on the one side, and on the other; according therefore to the practice of the courts below, a witness is asked on cross-examination, whether he has made a declaration, or held a conversation, and such previous question is considered as a necessary foundation for the contradictory evidence of the declaration or conversation to be adduced on the other side. I must, however, my lords, take the liberty to add, that in any grave or serious case, if the counsel had, on his cross-examination, omitted to lay the necessary foundation in the way in which I have mentioned, the court would of its own authority call back the witness, in order to give the counsel an opportunity of laying the required foundation, by putting his questions to the witness, although the counsel had not before asked them; it being much better to permit the order and regularity of the proceedings, as to time and season, to be broken in upon, than to allow irrelevant or incompetent evidence to be received.

My lords, this being the opinion of the judges upon the question which I have taken the liberty to read to the House, it will follow as a consequence, your lordships will be aware, that to the other question which applies itself to the witness's knowledge of a particular fact, the same answer in the negative must be given; and in addition to the reasons with which I have troubled your lordships on the first question, it may also be added, *where the* question proposed regards the witness's know-

ledge, that although a witness may have mentioned a fact in ordinary conversation at a former period, it does not follow that he may have that, which in a court of law can be considered as knowledge of the fact. A fact is often mentioned in conversation from the representation of others, without such a knowledge of it as can enable a person to say in a court of law, I know the fact.

My lords, the answers to your lordships' questions, which I have delivered to your lordships, are the unanimous opinion of the judges now present. But your lordships will be pleased to consider the reasons that I have taken the liberty to offer as proceeding from myself only; there not having been an opportunity of submitting to the previous perusal of my learned brothers, the written paper from which your lordships would observe that part of what I offered was read; I trust, therefore, that whatever imperfection may be found in the reasons, will be attributed by your lordships to me alone.

The Earl of Liverpool observed, that every noble lord must have carefully attended to the opinion just delivered, and to the language in which it was expressed. It appeared that, by the practice of the courts below, the question might be regarded as objectionable, and their lordships would remember their own resolution of conforming generally to that practice.

Lord Holland thought the reasons stated by the learned judge completely satisfactory.

The Lord-Chancellor said, that in strict form the examination now about to be pursued ought to be conducted by the court. If the learned counsel would have the goodness to represent to him the questions he wished to put, he would himself state them to the witness.

Theodore Majochi was then again called in, and examined by *Mr. Brougham*, through the interpretation of the Marchese di Spineto.

Do you recollect having seen, at the Villa Ruffinelli, William Carrington, servant to Sir William Gell?—I do not remember that.

Do you remember having seen Sir William Gell's English servant near Rome any where?—This I do not remember.

Do you remember having ever seen Sir William Gell's English servant any where?—I have seen him I think at Rome, but not at Ruffinelli.

Did you ever tell Sir William Gell's English servant that Baron Ompteda had employed some one to get the keys of the Princess at Como, in order to have false ones made from them?—This not.

Did you ever tell that servant any thing to that or the like effect?—I have *never spoken of this.*

Did you ever tell him that the person employed for the aforesaid purpose by Baron Ompteda had confessed to the police such employment, and had been discharged in consequence?—I have never had any such conversation.

Did you ever tell him that if the Princess had not ordered the servants to take no notice of the conduct of Ompteda, you yourself would have killed him like a dog?—I never said any such thing; these things are quite new to me.

Have you ever spoke of the villainy and ingratitude of Ompteda, after having so long ate and drank in the Princess's house, and complained that he had brought suspicion upon the servants?—Never.

Did you ever talk of Ompteda to the English servant of Sir William Gell by name?—No.

Mr. Brougham.—Perhaps your lordship would now allow me to suggest a more general question?

The Lord-Chancellor.—A rule has been laid down, to which we must conform. The court, in its discretion, will act according to circumstances; and it is only on the occasion of their particularly arising that the court will act against the tenor of its stricter rules.

Mr. Brougham.—I wish, my lords, to put a more general question, in order to make the contradiction the more specific; because the witness may say, "Oh, I may have said all this, but I don't know to what person." We wish to prevent this.

The Earl of Liverpool.—I only wish to know how far counsel are going? I am quite certain the witness should not be cross-examined, as it would be doing him a most material injustice. Special permission is given to counsel to examine on a special case, and their lordships should strictly keep to that. I hope, however, when such cases arrive, your lordships will jealously watch them, and take care your indulgence is not abused.

Lord Erskine.—It is quite obvious that witness might shelter himself as has been suggested, and in my opinion he should not be allowed to do so. It is necessary he should be asked if he said these things to any one.

The Lord-Chancellor.—On the best consideration of this subject, I think your lordships ought to limit all these questions to the absolute necessity of the case. To these points you should tolerate examination but no further.

Lord Erskine.—Surely there can be no objection to ask him if he said so and so to any body?

Lord Lauderdale considered the present difficulty to arise from Majochi's antecedent examination, in which *he said he did* not know Ompteda, although he admitted

he knew a German Baron about the Princess. I wish it to be put to him, if he held this conversation as of a German Baron who visited the Princess.

Mr. Brougham.—Do you recollect the German Baron with the extravagant name, of whom you spoke in your former examination?

The Lord-Chancellor.—Would it not be the better way to repeat a few questions and answers of his former examination?

Mr. Brougham.—Very well, my lord.

The following questions and answers were read from the former evidence of the witness, in page 63 of the printed minutes *(Ch. p. 72)* :—

"Did you ever see the Baron Ompteda?—I do not remember that name.

"Did you ever, during the year after the long voyage, see a German Baron dining at her Royal Highness's, at the Villa d'Este?—In the house of Villani, I saw him.

"Then you do know a certain German Baron who used to visit her Royal Highness?—He was a Prussian.

"What was his name like, as nearly as you can recollect?—I do not remember the name, because it was an extraordinary or unusual name, but he was called the Baron, Baron, Baron, something.

"Did you ever hold any conversation with Sir William Gell's English servant respecting the conduct of that Baron with the extraordinary name?—Never, never; I never spoke of this Baron."

The witness was directed to withdraw.

William Carrington was then again called in, and further examined by *Dr. Lushington.*

What did you hear Majochi say respecting the Baron Ompteda?—He told me that Baron Ompteda was on a visit to her Royal Highness.

Was that Theodore Majochi?—Theodore Majochi.

Was he in the Queen's service?—He was.

What did he tell you respecting the Baron Ompteda?—He told me, that Baron Ompteda was on a visit to her Royal Highness, and that he had employed the postillion and the chambermaid to procure the keys of her Royal Highness's room to get false keys made.

The Attorney-General objected to the form of the examination.

Dr. Lushington.—Did Majochi tell you that Ompteda had employed some one to get the keys belonging to the Princess at Como, in order to get false ones made?—He did.

Did Majochi ever tell you that a person had confessed that he had been so employed, and was discharged in consequence?—He did.

Did Majochi ever tell you, that if the Princess would have allowed him he would have killed him like a dog?—He did.

Killed whom?—Baron Ompteda.

Did Majochi state, that Baron Ompteda was very ungrateful, after he had so long ate and drank in the Princess's service?—He did.

Did he say that he had made the servants of the house to be suspected?—He did.

Did he frequently mention the name of Ompteda?—He did, often.

Do you remember Sir William Gell being ill at any time that he was with the Princess of Wales?—I do.

Where?—The first time at Brunswick.

Any where else?—At Strasburgh.

Any where else?—At Naples.

Do you remember the Princess ever visiting Sir William Gell when he was in bed?—I do.

Many times?—At Strasburgh he was on a sofa.

How was he at Brunswick?—At Brunswick he was on a sofa, and at Strasburgh on a bed.

How was he at Naples?—In a bed on the floor.

Was he in bed at the time?—He was.

Cross-examined by the *Attorney-General*.—Where was it you had this supposed conversation with Majochi?—In the court-yard.

Where?—At Villa Ruffinelli.

Who was present?—At that time he was by himself.

Did you meet him there accidentally, or how came you in the court?—He was there preparing the Princess's carriage to go to Rome,

How came you there?—I was there merely accidentally, by walking about the premises.

Was your master going to Rome too that day?—He was.

How did he go?—He went in a carriage.

Who prepared his carriage?—I am not certain.

Had you to prepare his things to go to Rome?—I had.

How long before they set out for Rome was it the conversation took place?—This was on the same day we went to Rome.

How long before?—It might be an hour, or an hour and a half.

How long before was it?—I should suppose an hour.

At what time did you go to Rome?—About twelve o'clock.

Do you recollect what month that was in?—I think in the month of July.

In what year?—It must be in 1817.

In July 1817?—Yes, it was the time Sir William Gell was with her Royal Highness.

How long had you been at Ruffinelli?—Part of two days and one night.

Did you go to Rome that day?—We did.

How long did you stay at Rome?—Sir William Gell stopped at Rome for two months.

How long did you stop?—As long as Sir William Gell did.

Did Majochi go to Rome that day?—He did.

With the Princess?—With the family.

He was preparing the carriage, you say, at the time this conversation took place?—He was.

Who else was in the yard or about the yard at that time?—Principally the stable people, and the rest of the servants.

Do you remember the names of any of them?—I was not perfectly acquainted with the stable people.

You do not know the names of any of the persons about the stables?—I know one that was near to him, I do not know whether he heard him, which was Louis Bergami; he was in a lower room opposite, where he was preparing the carriages.

What led to this conversation with Majochi at that time?—He was talking of the disrespect Baron Ompteda had paid to her Royal High-

ness, and that he should like to have it in his power to have satisfaction from him.

What led to the conversation about Baron Ompteda at that time?—It was generally the subject of conversation through the house at that time.

At that time in the month of July in the year 1817?—Yes.

At Ruffinelli?—Yes, it was.

Did you begin the conversation, or did he commence it with you?—He commenced it with me.

Majochi?—Yes, Majochi.

And he commenced it in the manner you have been asked now, did he?—Yes.

He began by saying that Ompteda had employed some one to get the keys?—He did.

He began the conversation in that way?—He did.

When you came up to him, he said Ompteda had employed some one to get the keys?—Yes.

Those were the first words that he used?—His first words were, "Have you heard of the affairs of Ompteda?"

Those affairs that had been talked of in the house while you were at Ruffinelli?—Yes.

He asked you whether you had heard of the affair of Ompteda?—Yes.

What did you say to him?—I said I heard something of them, by which means he began, and told me the whole over again.

Had he told you this before?—He had talked about it, but not throughout.

When did he talk about it?—In the servants' hall, when he had been in the hall at dinner with the rest of the servants.

What other servants were there when he talked about it in the servants' hall?—There were at the livery servants' table, I think, eight or ten footmen, and other persons belonging to the household.

Name some of them?—I do not recollect exactly the names.

Do you not recollect the names of any of the servants?—They generally went by their christian names; there was one Francisco, a Genoese.

What was he?—He was a footman, I believe; he wore her Royal Highness's livery.

Do you remember the name of any other?—No, I do not recollect the name of any other; they were all strangers to me at that time, except him; I had seen him before.

He had had this conversation in your presence in the servants' hall?—Yes, he had.

Still he said to you when you came out into the court-yard "Have you heard of the affair of Ompteda?"—Yes.

How long had you been at Ruffinelli?—Part of two days and a night.

Had Sir William Gell been with the Princess before that?—He had.

Where?—At Naples.

After he left Naples, was this the first visit he paid her?—No, he had seen her before.

Where?—In Rome.

How long before?—About twelve months before.

This was the second time then that the Princess was at Rome?—The second time that Sir William Gell saw her at Rome.

That was in the month of July 1817?—I am not certain of the year, I think it was 1817.

Be good enough to recollect the year if you can?—I think it must have been in the year 1817 or 1818; I think it must have been in 1817.

Which was it, 1817 or 1818?—I am not certain it was 1817 the first time Sir William Gell saw her Royal Highness at Rome, or whether it was the second time.

But this was the second time?—This was the second time at Ruffinelli.

There was a year between?—There was a year or thereabouts.

There was a year between the first time of his seeing her at Rome, and his seeing her the second time?—There was.

This was the second time?—Yes.

Whether it was in 1817 or 1818, you are not certain?—I am not certain.

How many days did you see the Princess when she was there the first time?—When she was there the first time from the Turkish voyage, I think three days.

Were you at the Villa Brandi?—Yes.

You were there with Sir William Gell?—I was.

Did Sir William Gell sleep in the house at the Villa Brandi?—No, he did not.

Where did he sleep?—He slept at the Hotel de l'Europa.

How far is the Villa Brandi from the hotel at which Sir William Gell slept?—A mile and a half or two miles.

Did Sir William Gell use to dine with the Princess, and return to the hotel in the evening?—Yes, he did.

About what time did he usually return?—Sometimes late, and sometimes early.

Usually?—When there was a deal of company, sometimes twelve o'clock, or sometimes one at night.

How far is Ruffinelli from Rome?—Four miles or better.

At the time you came from Ruffinelli to Rome, did the Princess come to the Villa Brandi?—Yes, she did.

It was at that time that she remained there, and that Sir William Gell was there?—Yes.

How often did Sir William Gell dine with the Princess at that time?—I cannot say, but I think nearly every day.

Re-examined by *Dr. Lushington*.—You are understood to state, that after the Princess left Naples you saw her twice at Rome or at Ruffinelli?—Yes, twice.

The first time that you saw the Princess, did you hear any mention made of Baron Ompteda?—The first time, no.

Had you any conversation with the servants of the Princess prior to your seeing them the second time at Ruffinelli?—I saw the servants, and dined with the servants, the second time.

Was it then that you first heard of Baron Ompteda?—Yes, it was.

Examined by the Lords.

The Marquis of Buckingham.—You state that you have been a midshipman in the King's service?—Yes.

How long have you left the service?—In the year 1811.

How long were you a midshipman?—About a twelvemonth.

When did you enter Sir William Gell's service?—At the same time, in 1811 or February 1812.

Immediately after you left the service?—Yes, very soon after.

Do you understand Italian?—A little.

Not well?—Pretty well.

Can you speak it?—I can speak it.

So as to make your way in Italy?—Yes.

What language did Majochi hold this conversation with you in?—In Italian.

Did any body interpret between you, or did you understand one another?—No, we understood one another perfectly.

You understood him perfectly?—Yes.

Perhaps you cannot speak the language enough to give the words in Italian, but give the words in English that he used when he spoke of his willingness to kill Ompteda?—He said, he and the servants in general had made up their minds to give him a good thrashing, and to kill him if they could.

Was that all that passed about killing Baron Ompteda?—That was all he said in respect of killing him; he said it in Italian.

You mean to say that he never said any thing to you respecting killing Baron Ompteda, except those words you have just now stated?—He said he was forbidden to do so by Lieutenant Hownam; he and the servants were forbidden to molest Ompteda, in any place where they might meet him, by Lieutenant Howman.

That was all that passed upon the subject of either thrashing or killing Baron Ompteda?—That was all.

Those were the only words?—Those were the only words.

Those were the only words that were used?—They were.

Lord Ellenborough.—Where is Ruffinelli?—It is about four miles from Rome.

Is Rome the nearest town to Ruffinelli?—Yes, I think it is; there are some small villages under the toe of the mountain near it.

Which is the nearest?—I do not remember the name, but the largest is Albano; that is the next principal one that is near it; there is another small one, the name of which I do not recollect.

Have the goodness to describe the house at Ruffinelli, what is the colour of it?—The colour of it is white, outside.

Be good enough to describe it?—It had formerly been a convent; a long slip of a house, with a chapel at one end of it.

Is it a high house, or a low one?—Rather a low one.

Is the garden before or behind it?—The garden is behind it, or in the middle of it rather.

Has it a garden?—It has.

Is it walled?—I do not think it is; I have walked in the garden, I never saw any wall.

Was it by day, or by night, the Princess visited Sir William Gell when he was ill in bed?—By day.

Did she come alone?—I think Lady Elizabeth Forbes was with her.

Were other persons in the room besides yourself and the Princess and Sir William Gell?—I think Dr. Holland was in the room one time.

Albano is the nearest village to Ruffinelli?—There is Frascati, a village in which it stands, about a quarter of a mile off.

Is Frascati higher or lower?—I think it is higher.

The Earl of Lauderdale.—You have said that you saw Louis Bergami at the time this conversation took place between you and Majochi?—Yes.

How was Louis Bergami occupied?—He was occupied in giving

orders for the horses, and different orders on going from the place.

Was he assisting in preparing the carriages?—No, he was not.

You heard this conversation twice at Ruffinelli, in the servants' hall, and once in the court-yard?—I did.

Do you recollect the names of any of the servants besides that one you have mentioned?—No, I do not recollect any of the names of the servants.

Do you remember a servant of the name of Alessandro there?—No, I do not; I did not dine at the table of the livery servants, and did not know them.

You did not know Alessandro Finetti?—I do not recollect the name.

Did you ever see a servant of that name when you were at Ruffinelli?—Not to my knowledge, I might see him, but did not know him.

Were your ever more than once at Ruffinelli?—I was there part of two days and a night.

Are you to be understood to say, it was only four miles from Rome?—I think it was four miles from Rome.

The Marquis of Huntly.—In what ship did you serve in the navy? I was with Sir John Beresford in the Poictiers.

What was the first year you went to Italy?—I think in 1814.

Did you speak Italian before you went to Italy?—I did a little.

The Earl of Liverpool.—You say that Teodoro Majochi told this story first in the servants' hall: state particularly the names of the servants who were there; were those the servants you saw either before or afterwards at the Villa Brandi?—I saw them at the Villa Brandi afterwards.

Did you not live with them at the Villa Brandi generally, during the time Sir William Gell was there?—No, I did not with the livery servants.

Can you name any one you can recollect?—I do not recollect their names, I know them all by sight.

The Earl of Rosebery.—Can you repeat in Italian the particular phrase Majochi made use of, with reference to speaking of Baron Ompteda?—I can a little, I think.

Have the goodness to do so?—Lui hanno detto a mi, vudres che lui lasciar me e fare il mio dovere, che lui vorrebbe bastonare e mazzare come un cane in mezzo alla strada.

Translate that into English?—Teodoro Majochi said he wished he had it in his power to do his duty and his pleasure, he would thrash him in the street, and murder him in the street.

The Earl of Darnley.—Can you swear to the accuracy of those latter words "come un cane"?—Yes, I can.

Are you certain that conversation took place in one or other of the two years, 1817 or 1818?—I am not certain whether it was in 1817 or 1818.

You are certain it was in one or the other?—I am.

What is the English of these words "come un cane"?—As a dog, or like a dog.

You have stated the distance from the Villa Ruffinelli to Rome to be four miles; what miles do you mean?—I mean Roman miles, or geographical miles.

Are those computed or measured miles?—I understand they are measured miles.

Did you ever walk from Rome to the Villa Ruffinelli?—I never did, I have always gone in a carriage.

How long were you going from one to the other?—Three quarters of an hour, or an hour.

You went very slow?—I did; it is all up-hill.

Are you sure it was the Villa Ruffinelli or the Villa Brandi?—The Villa Ruffinelli.

The Marquis of Lansdowne.—Do you recollect whether there are any measures of distance corresponding with milestones on the road?—I do not recollect any milestones; it is generally called so.

Why did you leave the navy?—I did not like the sea, and Sir John Beresford got my discharge.

Is Frascati near to Ruffinelli?—It is about half a mile, or a quarter of a mile.

When you had this conversation with Majochi, did he inform you how long before that time it was that this affair of Baron Ompteda had happened?—He did not say any time, but said it was at Como.

A Peer.—Did you ever mention to any person the conversation that passed between you and Majochi?—I did.

To whom?—To Mr. Vizard.

Was that shortly after the time he had spoken to you?—No, it was not, it was in London.

Did you, shortly after the time you had had that conversation with Majochi, ever mention it to any persons of the suite you were with? No, I never did, I never was asked.

The Earl of Lauderdale.—Can you state the day of the month in which you mentioned it to Mr. Vizard?—It was in the month of September, I do not remember the day.

Was it on the day on which you first saw Mr. Vizard?—I had seen him before, it was the first day I was at his house.

Had you read the evidence in this cause antecedently?—I had, some of it.

Had you read Majochi's evidence?—I had.

The Earl of Harrowby.—You have stated that Majochi had held some conversation in the hall, among the other servants, previous to his conversation with you, can you recollect what Majochi said in that conversation when the other servants were present?—Only to the same purpose relative to the affair of Baron Ompteda.

Was that conversation addressed to you, or to the servants in general?—It was addressed to me.

Did the other servants hear it?—They did.

You have stated that Majochi began the second conversation with you by asking you whether you had heard of the affair of Baron Ompteda?—He did.

The Earl of Rosebery.— Was the conversation in the servants' hall, and the conversation in the yard upon that subject held on the same day?—No, it was not.

Which was held first?—That in the servants' hall was first, he did not mention about thrashing and murdering Ompteda in the hall, but in the yard.

Did you ever mention this to Sir William Gell?—I did, after I had read the evidence.

And before you went to Mr. Vizard?—No, after I had been to Mr. Vizard.

Without stating any number of times, can you state how often you went from Rome to Ruffinelli, and from Ruffinelli to Rome?—But once.

The Marquis of Lansdowne.—Did you take any part in the conversation with Majochi, respecting Ompteda, when you heard him mention it in the servants' hall?—I did not take any part further than giving ear to it; but he told me more particularly in the yard.

A Peer.—You have given in Italian some part of what Majochi told you, can you give, in the original Italian words, the way in which he begun his conversation, what were the Italian words?—Avete inteso cosa ha detto il gente de la servizio di affare de Ompteda.

The Earl of Enniskillen.—You were a midshipman on board the Poictiers?—Yes.

Where were you discharged?—At Portsmouth.

In February 1812?—It was in February 1811.

When you had the second conversation with Majochi, did Majochi allude to the former conversation which you had in the servants' hall?—He did.

In what way?—Telling me many particulars in his own idea what he would wish to do.

The Marquis of Buckingham.—You mentioned this matter to Mr. Vizard after you had read the evidence given by Majochi?—I did.

Did you mention it to any body else?—I mentioned it to people in the street talking of it; that I could contradict it.

To whom did you mention it?—I mentioned it to Mr. Whitcombe, who was here just now, John Whitcombe, Mr. Craven's servant.

Did you mention it to him first?—I think I did.

Did you ever mention it to your own master, Sir William Gell?—After I had seen Mr. Vizard.

How came you to go to Mr. Vizard?—I was told; I saw him at the Queen's, and I knew he was solicitor to her Majesty.

Were you told he was solicitor for her Majesty?—Yes.

Who told you?—Sir William Gell.

Before you mentioned this matter to Sir William Gell?—Yes, before I mentioned this matter to Sir William Gell.

Can you mention any other persons to whom you mentioned this besides Mr. Vizard and Mr. Keppel Craven's servant?—I mentioned it to Sir William Gell and Mr. Craven, after I had been to Mr. Vizard.

Before you went to Mr. Vizard?—I mentioned it to persons in the Queen's household.

Name them?—Mr. Hieronimus, Mr. Milborn, Mr. Crachnell.

Did you mention it to any persons not in the Queen's household?—I mentioned it to different people in company.

Where did you mention it to those people?—I mentioned it at Brandenburgh House among the Queen's servants.

You say you mentioned it in the street?—Yes, I did; in consequence of persons knowing I was with Sir William Gell, persons asked me, and I said I knew a good deal of it was not true.

Who were they, persons known to you?—Mr. De Bruhl, General Oakes's servant; Mr. Mitchell, Lord Glenbervie's servant.

The Duke of Clarence.—Did you go by the same name when you were on board the Poictiers as you do now?—I did.

Were you in any other ship in his Majesty's service than the Poictiers?—No.

Lord Colville.—Have you any certificate from Sir John Beresford *of your service* under his command?—I had it, but I have not it now,

Do you mean to say you have lost it?—I have.

But you are certain you received a certificate?—I am.

Were you rated a midshipman on board the Poictiers?—I was.

How long?—I do not know rightly how long; I suppose during the time I was there.

What situation had you served in before you were on board the Poictiers as a midshipman?—I had been at sea in the merchant service when I was a boy; then I had been on land, and got my livelihood in the best way I could.

You are to be understood that you were never in his Majesty's service before?—No.

The Earl of Enniskillen.—What countryman are you?—An Englishman.

What part of England?—Essex, near Colchester.

The Duke of Clarence.—Having stated that you had been in the merchant service previous to your going on board the Poictiers, are you to be understood to have joined that ship as a midshipman, capable of doing your immediate duty, or as a youngster?—I went with Sir John Beresford on board the Poictiers.

Do you mean that you entered as a youngster to learn your duty, or did you go upon the quarter-deck of that ship as a positively effective midshipman?—I was not a very youngster; I did not go upon the quarter-deck for some time; but I understood I was to be a midshipman.

Are you positively sure that from the time you joined the Poictiers, you were rated midshipman?—I am not certain whether I was rated at the time or not; I was rated at the time I left it, which I saw upon my ticket.

You are perfectly clear in your own mind that you left his Majesty's service for no other reason than at your own request?—Nothing else.

The Lord-Chancellor at the request of the Attorney-General.—Was the servant Francisco, whom you have mentioned, the servant of Mr. Hownam?—I am not certain, I only know him by the name of Francisco, and know he wore her Royal Highness's livery.

Was he the only servant of that name?—I recollect no other.

The witness was directed to withdraw.

Then JOHN JACOB SICARD was called in, and having been sworn, was examined by *Mr. Brougham.*

When did you first enter the service of the Princess of Wales?—Next February the 1st, it will be twenty-one years.

You are a foreigner?—I am a naturalized Englishman now.

Of what country are you a native?—Of Anspach.

Had you been in any other place before you entered her Royal Highness's service?—Yes, I had the honour of living ten years with the Marquis of Stafford.

In what capacity did you live with his lordship?—As cook.

In what capacity did you enter her Royal Highness's service?—As cook.

By whom were you placed in her Royal Highness's service?—By his present Majesty's orders; Mr. Beek, who is now dead, appointed me.

Were you afterwards promoted to any other place in her Royal Highness's service?—In the October of the same year, her Royal Highness was pleased to appoint me her *maitre d'hotel.*

Did you remain in her Royal Highness's service in that capacity?—*Yes,*

Did you afterwards serve her in that capacity till you went abroad with her?—Yes.

When was that?—We left England in August 1814.

Did you accompany her Royal Highness to Brunswick?—Yes.

From Brunswick to Italy?—To Strasburgh, and through Switzerland into Italy.

Do you remember her Majesty having occasion for a courier at Milan?—Yes.

Did you receive any directions respecting the hiring of a courier?—Sir William Gell gave me orders to hire one.

Did he mention to you the person whom you were to hire?—Partly so; he said he would be recommended by the Marquis Ghisiliari.

Did you in consequence of his directions hire the courier so recommended?—Certainly.

Was that Bergami?—Yes.

Had you any communication with her Royal Highness upon the subject of hiring Bergami at all?—None.

Do you happen to recollect whether her Royal Highness dismissed a courier about that time?—No.

Do you happen to recollect whether soon after that time?—Soon after, at Rome; Croquet we had hired at Geneva.

Do you recollect, on your arrival at Naples, the house in which you were the first night with her Royal Highness?—Yes.

Was there sufficient accommodation for her Royal Highness's suite in that house?—Not conveniently.

Were other arrangements for the accommodation of the suite made the day after?—Yes, several.

Do you recollect in what room Bergami, then the courier, slept that first night of your arrival?—If I am right he slept where Charles Hartrop slept, or somewhere near there, over Lady Elizabeth's room.

Did he continue to sleep in the same room the following nights?—I believe one night or two.

Did he then remove to another room?—Yes.

Who appointed that room for him to go to then?—I did.

What was that room?—A small cabinet.

Did you make that arrangement for his changing his room, and sleeping in that small cabinet, by directions of her Royal Highness?—No.

Had you any communication previously with her Royal Highness upon the subject?—No.

Had you any communication with any other person?—With Hieronimus I spoke.

Do you recollect any reasons you had?—The principal reason I had was, that there was a glass door which went into the garden that was not safe, and therefore I thought it right that a servant, or some one, should sleep there, a male.

During the time that you have lived in her Royal Highness's service, now her Majesty, have you had occasion to observe the manner of the Queen towards her servants?—Yes, I have many times.

Have you had occasion to see the manner in which her Majesty treated her servants?—Yes.

The manner in which her Majesty spoke to her servants?—Yes.

Has her Majesty frequently conversed with youself?—Many times.

What manner of conversing with or treating her servants had her *Majesty generally*?—Uncommon kind, almost to a fault.

Was this manner of her Majesty towards her servants generally to all

her servants, or was it confined to any one individual among them?—To all.

Have you ever had occasion to walk near her Royal Highness, or with her Royal Highness?—Many times, by her command.

Have you ever walked so with her Royal Highness in a garden?—Yes, in the pleasure ground at Blackheath many times.

Upon those occasions, has her Royal Highness talked to you in walking?—Very condescendingly.

Has her Royal Highness ever had occasion to take your arm in those walks?—Except on steps or rising ground, and sometimes her Royal Highness, in the way of conversation, I have had the honour for her Royal Highness to put her hand upon my arm, by saying, "you understand what I mean," or, "do not you agree with me;" and I believe their lordships may have had an opportunity of that.

How long have you ever had the honour of walking with her Royal Highness upon those occasions?—Half an hour, or sometimes more.

Do you happen to recollect whether you walked with her in the garden at Naples at all?—I do not recollect it.

Do you recollect a masked ball at Naples?—I do.

Given by her Royal Highness?—Yes.

To the Court of Naples?—Yes, I had the management of it; Mr. Piarelli assisted me, a person who must be known to some of your lordships; Lord Llandaff, I believe, knows him.

Who is Mr. Piarelli?—A very respectable person; a merchant.

Did you also yourself, upon that occasion, appear in any dress?—Yes, I did.

Did any of the other members of her Royal Highness's suite?—Yes, Hieronimus and I went together.

How were you both dressed?—As Turks.

Do you happen to recollect her Royal Highness attending that masquerade herself?—Yes.

Did she appear in one or more dresses in the course of the evening?—I recollect two dresses.

Do you recollect what those dresses were?—One of them was a kind of a country peasant, and the other a Turkish dress, if I recollect right.

You are no longer in her Majesty's service?—On a pension as long as her Majesty pleases to give it.

When did you quit her Royal Highness's actual service?—Within these last three or four months.

Cross-examined by the *Solicitor-General*.—What is the amount of the pension you have from her Majesty?—For the present it is 400*l.* a-year.

Did you say that that was a pension, the continuance of which depended upon her Majesty's pleasure?—Entirely.

You entered her Majesty's service some time before she went abroad, and were at Naples?—Yes.

Did you leave her at Naples?—No, her Royal Highness left me.

Where did you go to from Naples?—From Naples I went, with the servants and the baggage and horses, down to Genoa by sea.

Did you remain at Genoa till her Royal Highness arrived there?—No.

Where did you go to from Genoa?—Immediately for England.

When did you join her Royal Highness again?—Not until I went out with the news to inform her Majesty of the King's death, at Leghorn.

So that the only time you had an opportunity of observing the conduct of her Royal Highness towards Bergami, was during the time of her Royal Highness's residence at Naples?—Exactly so.

Was it your business to allot the different apartments appropriated to the different individuals of the suite?—It was mostly my business.

Do you remember stopping at the country house of Murat, the night previous to your arrival at Naples?—Yes.

Did not William Austin that night sleep in the bed-room of her Royal Highness?—That I cannot tell, because I went off immediately in one of the King of Naples's carriages for Naples, to prepare the house there.

Before you left that country house for the purpose of proceeding to Naples, did you make an arrangement of the apartments for the different individuals composing this suite?—Not in that house, because the Mareschal de la Cour settled that.

Have you no means of knowing whether any apartment there was allotted for William Austin?—No.

With respect to the apartment that was occupied by Bergami, had it not a direct communication by a passage with the apartment occupied by her Royal Highness?—Not exactly so; there were several doors.

Was there a small cabinet contiguous to the apartment occupied by Bergami?—There were several, two that I remember.

Was there a public passage leading from the bed-room of Bergami to the bed-room of her Royal Highness?—Yes.

Was there, beyond that passage and parallel to it, a small passage leading the whole length?—There was.

Was there, at the end of that passage, a small cabinet?—Not to my recollection.

Was it so constructed, that a part of the passage might be enclosed so as to form a small cabinet?—That I cannot answer what might be done.

Was there a door opening from the room of Bergami into that passage?—There was.

Was there another door in that passage opening into the large passage?—I believe there was.

Was there a door opening from that passage, also into the room of her Royal Highness?—These questions are difficult to answer, because I cannot point out the plan; you are asking me a question I cannot be exactly positive about; if you will point out what you mean, I shall be able to tell you.

A plan was shown to the witness by the Solicitor-General, who stated it was not referred to as to actual measurement, and the witness was asked,

Assuming the apartment there described to be that of her Royal Highness, does it correctly point out the other apartments?—It is correct, except that there was another door in the passage.

Mr. Brougham said that it was material for the House to know that the witness had mentioned a door which was not found in the plan of the Solicitor-General, and that when that was stated his learned friend had withdrawn and abandoned his plan.

The Solicitor-General begged that Mr. Brougham would not make so incorrect a statement.

Was there not then a communication along that passage, through this door which you have described, to the bed-room of her Royal Highness?—Yes.

Did any body sleep there?—Not that I know of.

The rooms in which Hieronimus slept, and in which Doctor Holland and William Austin slept, all communicated with the other wide and public passage?—Yes.

And there was no person slept in that line of communication you have pointed out, between the room of her Royal Highness, and the room allotted to Bergami?—I understood, that sometimes when Bergami was ill, a servant was to sleep there; but I never saw it.

With that exception, there was nothing to interrupt the communication, provided the parties were desirous of communicating between the one room and the other?—I do not recollect that there was.

What time in the evening was it that you arrived at Naples?—I arrived in the morning.

What time did her Royal Highness arrive?—In the afternoon.

What kind of weather was it?—Bad weather, rain.

Rain and wind?—Yes.

Who were the servants that breakfasted together at Naples?—In the steward's room, there were all the upper servants, Bergami, me, Hieronimus, Mademoiselle Demont, and Barber, Lady Elizabeth's servant.

Will you undertake to swear that Bergami breakfasted at Naples in that room regularly?—Mostly with us, for he was very fond of meat, and used to go into the coffee-room, what we called the office, and have some meat for his luncheon or breakfast, he did not like tea; they do not take breakfasts in Italy, not tea, not one out of a thousand.

When you say they do not take breakfast, do you mean they do not take tea for breakfast?—No; they take it later, and make a meal of it.

When you were talking of the ball at Naples, you closed the ball with your Turkish dress?—I, personally!

Not you personally, but that was the last dress you had?—I had but one dress.

Was it the last dress her Royal Highness had?—I do not know which was the last dress. I cannot say how many more she had after that, two I saw.

You have spoken of the dress of the peasant, and the dress of the Turkish lady, was the dress of the Turkish lady the last?—I believe the peasant was the first, and the Turkish the second.

Did several persons call upon her Royal Highness on the morning after her arrival at Naples?—For several days, several persons of distinction paid their visits.

Do you remember particularly the morning after her arrival?—Of course, particularly, at first there were numbers.

Were they kept waiting by her Royal Highness, or did she appear at first?—That I cannot tell exactly, for I did not wait in the drawing-room, I was not page.

Do you recollect going in quest of her Royal Highness, in consequence of persons being waiting there for her appearance?—I cannot charge my memory with that; it might have been so, for it has happened in this country more than once.

You have no recollection of the circumstance on the first day after her arrival?—No, *not at Naples*, I have not.

Have you any recollection of such a circumstance having happened on the second day after her arrival?—No; not at Naples at all; I know it has happened at Blackheath once or twice, when I have been up-stairs.

Bergami rode as courier to Naples, what was his duty after he got to Naples?—He was obliged to attend afterwards as a page, waiting in the drawing-room, carrying breakfast up, and waiting at table.

Did he share that duty with Hieronimus?—Yes.

Was Hieronimus also courier?—He had been on the road, but as soon as he came to Naples he acted as page.

When you speak of her Royal Highness taking your arm, that was when there were any impediments or steps, or any difficulty of that kind?—Yes, in that way.

Or touching you in conversation?—Yes, by chance.

You do not mean to say or insinuate that there was any thing further than that;—No; God forbid.

As far as you recollect, is this plan (the plan being again shown to the witness) correct, with the single exception of there being some subdivisions there?—I cannot decide upon it, because I have not sufficiently taken notice of those rooms to be positive of it, for I never dreamt of such a thing happening.

When was the pension granted to you?—No pension was granted to me, it was my salary.

The continuance of your salary?—Yes, I had 300*l.* first, and her Royal Highness was gracious enough to give me 100*l.* a year more, for acting in the place of Mr. Hoper, as her *homme d'affaires*, when I came to England.

When was that 100*l.* a year added?—About three or four years ago.

Have you been out on the Continent for the purpose of bringing witnesses to this country?—I had a letter from her Majesty to Carlsruhe.

Did you bring any witnesses to this country?—No.

Had you known Bergami at all, before you saw him at Milan?—Never.

You went out you say for the purpose of communicating intelligence of the death of the King?—Yes.

Where did you see the Queen at that time?—I waited for the Queen's arrival at Leghorn.

Re-examined by *Mr. Brougham.*—Do you recollect in the passage that you mention in which her Royal Highness's room, and those of the rest of the suite were, whether there was a water closet there?—There was a small place used for that purpose, not an English water closet.

To whom did you take the letter to Carlsruhe the other day?—I carried it to the agent that was sent out, and he kept it, Mr. Leman.

Do you mean that it was a letter to him, or to any other person?—It was directed to the Great Chamberlain, a letter from the Queen, the seal was her Majesty's, directed to the Great Chamberlain.

Examined by the Lords.

Lord Ellenborough.—When Bergami was first taken into the Princess of Wales's service, were you desired to make any inquiries into his character?—None, because the Marquis of Ghisiliari recommended him for the whole.

Did you consider that sufficient?—I thought so at the time, he was *only engaged* as far as Naples.

Did it occur to you to make any observation upon his manner?—Not in an uncommon way.

In the common way?—I saw his behaviour always was proper.

Did he appear superior to the situation in which he was hired?—He was not quite so chatty as the Italians in general were; but I believe he behaved very properly, so far as I saw.

Is the single circumstance of his not being so chatty as common Italians were, the only circumstance that distinguished him from other couriers?—His behaviour in general; I was never acquainted with any couriers in general, but he behaved very well in my opinion.

Did he appear to be superior to persons in his situation?—Not particularly, he behaved very properly in his situation, civil, and obliging, and attentive to his duty.

Did you consider him too much of a gentleman to act in the situation of a courier?—Not exactly so, he never showed himself in that way, he never refused to do any thing that he was told.

Did you consider that his manners were rather those of a gentleman than of a courier?—He might have been rather more of a gentleman than of the lower sort.

Where did William Austin sleep on the journey to Naples?—In different rooms, mostly in the same room with the Queen.

Was it the usual custom for William Austin to sleep in the Princess's room?—On the journey.

Did you receive an order for the alteration of that?—None.

In point of fact, did William Austin sleep less frequently on the journey to Naples in the Princess of Wales's room, than he had slept before you went to Italy?—As far as I can recollect on the journey to Naples he always slept there, but I believe at Naples an alteration took place.

You have spoken of a room in which you understood a servant was to sleep while Bergami was ill, do you recollect whether there was or was not a fire-place in that room?—I cannot charge my memory to that.

The Earl of Donoughmore.—You have said that you engaged Bergami for her Royal Highness's service without having had any previous communication upon the subject with her Royal Highness?—I did.

Were you in the habit of engaging all the servants for her Royal Highness's family?—I was.

Were you in the habit of engaging them all alike, as you did Bergami, without any communication with her Royal Highness?—That was an exception on the journey; he was only engaged as far as Naples.

At Naples?—At Naples the other servants, yes.

Was there any other servant engaged in her Royal Highness's family at Naples, except Bergami himself?—Yes, there was Teodoro.

Is Teodoro the brother of Bergami?—No, Teodoro Majochi.

Mention any servant who was engaged in her Royal Highness's service besides Bergami and Majochi, whilst you were at Naples?—There were several inferior servants, confectioner's men, but their names I cannot recollect.

Was there a sister of Bergami engaged in her Royal Highness's service while she was at Naples, Faustina?—No.

Was there a brother of Bergami engaged in the service during her continuance at Naples?—None of the family; none but Bergami was engaged *in the Princess's service* while I was there.

You quitted the service at Naples, and did not return to it again till you went over after the King's death, to announce it to her Majesty?—Just so.

In what situation at that time did you leave Bergami; was he a servant at that time, or had he begun to be taken up as a gentleman?—Page; he was made valet de chambre and courier.

And page?—Yes.

Having hired Bergami as a servant, you left him as a servant on your quitting her Royal Highness's service?—I did.

You have mentioned the great condescension of her Royal Highness to all her servants; you were twenty-one years in the service?—I was.

During that period, did that condescension of her Royal Highness ever go the length of admitting any servant to her Royal Highness's table?—No, not to my knowledge.

During that twenty-one years, was there any person who had been hired as a servant to her Royal Highness, who was to your knowledge admitted to her Royal Highness's table?—Not to my knowledge.

The Earl of Kingston.—Do you know with whom Bergami had lived before he went into the service of the Princess?—I understood with General Pino.

Did you ever understand that he had lived with Mr. Grattan?—I do not know.

The last question and answer were ordered to be struck out of the minutes.

Lord Cathcart.—You are understood to have stated, that upon the arrival of her Royal Highness at Naples the first apartment allotted to Bergami was over the apartment of Lady Elizabeth Forbes?—It was.

Was Lady Elizabeth's apartment in the same part of the house with your own?—Nearly so.

In the same wing?—In the same wing.

Was there any apartment between that of Lady Elizabeth and yours?—A large passage-room, a corridor.

You spoke of the breakfast of the upper servants; can you recollect at what hour the greater part of the upper servants were assembled at their breakfast?—About ten o'clock.

The servants who did not come to that breakfast, but who preferred eating meat; did they eat it about the same time, or later?—Sometimes later, sometimes the same time; eleven or so.

Eleven or twelve?—Between eleven and twelve.

At what hour did Bergami attend the breakfast?—Ten o'clock, mostly.

Lord Grantham.—You have said, that till the time of getting to Naples, William Austin usually slept in the Princess of Wales's apartment?—Yes.

At Naples some change took place in that respect?—Yes.

You say that you went forward to prepare the apartments?—Yes.

Did you allot the apartments to the different members of the suite?—I did.

Did you allot an apartment to William Austin?—No.

Where did you allot a place or bed for him to sleep?—His own bed he slept in, was with us.

Where did you, in the arrangement you made with the rooms, calculate for him to sleep?—In the Princess's room, as he used to do.

Did you receive an order to make a change in that respect?—Not then; no orders whatever; the Princess afterwards appointed it.

To your knowledge, did William Austin sleep in the Princess's room?—Yes, at first.

How soon after you got to Naples did William Austin change from the Princess's room to another room?—The days I cannot recollect; but her Royal Highness spoke to me, that he was too old now, and he should have a room to himself.

You do not remember how soon after your arrival that was?—No, I cannot.

Was it soon after your arrival?—I should think about a week or so.

Did William Austin on any former occasion, to your knowledge, sleep in any room but the Queen's; not at Naples, but on the other journey?—I cannot recollect that he did.

Subsequent to leaving Brunswick?—I cannot recollect.

How long were you in her Royal Highness's suite, or rather in her household, after she left this country in 1814?—Until the 15th of February 1815, when I left Naples.

Lord Darlington.—When did you again see her Royal Highness?—At Leghorn, when I had the melancholy news to carry out.

Did you ever see any impropriety, according to your opinion, or familiarity, between her Royal Highness and Bergami?—Never, never; I am positive not in my presence.

You have mentioned, that you were sent from this country with a dispatch, for the information of her Majesty, of the late King's death?—I was.

By whom were you sent with that dispatch; by his present Majesty's government, or any other person?—By her Majesty's legal advisers.

Do you know whether any other courier or person came from his Majesty's government with the same information?—Not to my knowledge.

The Marquis of Lansdowne.—Can you state, from your knowledge, whether at Naples the Princess of Wales breakfasted alone with Bergami?—Never, never to my knowledge.

Is it probable that such a circumstance could have occurred without your having known it?—It might have been, but I do not believe it.

Did Bergami eat and drink with other livery servants?—At the steward's room, the upper servants, there were two tables; the livery servants dined below.

Did you ever know any other person that ate and drank at the steward's room, permitted to dine at the Princess's table?—Not to my recollection.

At what hour did the Princess usually breakfast at Naples?—According—no regular hour; eleven, twelve, or one.

Lord Lauderdale.—Do you recollect the Princess, the night after you went to Naples, going to the Opera?—I recollect her Royal Highness going to the Opera.

Do you recollect at what hour she came home?—I do not, for I had no business to wait.

You say you hired Bergami at Milan?—I did.

What wages was he to receive?—He had at first forty Louis d'Ors, and at Naples it was fixed at fifty.

Do you *remember when you* first saw him?—Yes, I do.

Where was it?—In the inn, when he was sent to me by the Marquis Ghisiliari.

You had not seen him in the inn before that time?—No, I had not.

How was he dressed?—He had a scarlet waistcoat on, laced with gold, and a blue surtout coat, and pantaloons and boots.

When you hired him, did you understand whether he was a married or an unmarried man?—No, I never inquired about that.

Did you know, before you left Naples, that he was a married man?—No.

Was that known in the family at all?—No.

You knew nothing when you left Naples of his having a child?—No, not even that.

You have not heard of Victorine?—No.

Was it you that proposed to the Princess that you should come to England, or did her Royal Highness order you to come to England?—I pointed out the necessity, about different things that wanted arrangement in this country; that it would be necessary to come about the sale by auction of the furniture, and a number of bills unpaid.

When you pointed out that necessity, had you in your view to return, having paid those bills?—Her Royal Highness made me promise that I should return, and bring my family; on those conditions she would let me go.

How came you to stay?—Afterwards her Royal Highness travelled about, and she said she would inform me when she should want me.

Do you remember whether her Royal Highness informed you, that she should not want you to return immediately?—Before I left Naples a long while, two months before, three months before, we fixed it for that period.

You had had no communication subsequently, directing you to remain in England?—No, none at all; I expected to go out with my family as I mentioned.

You then waited for orders that you never received?—No, I was to be prepared.

Did you wait the three years in a state of preparation, without orders?—I was so far prepared that I was ready to go at a moment's warning.

The Earl of Harrowby.—If you are understood in your description of the house at Naples, a person wishing to go from the apartment of the Princess to Bergami's room might do so by going through a passage, and then through a small cabinet, and then to Bergami's room?—As far as I can recollect that is exactly the case.

If a person wished to go from the apartment of the Princess to Bergami's room, was there any other way by which a person might so go except that which has been mentioned?—The passage and the room.

Was there any other way by which a person could go?—No other way; there was a door from the garden.

Was there any other way by which a person could go from the apartment of the Princess to the room of Bergami, except by going into the garden, and entering Bergami's room by the door which led into the garden?—There were two ways to go, through the passage, and through the little rooms.

How many doors were there in the room in which Bergami slept?—There were two, to my recollection.

Do you mean to include the door into the garden?—No.

There were two doors besides the door into the garden?—Yes.

One of those doors opened into a small cabinet, is that so?—Exactly so.

Into what room or passage did that door open?—Adjoining that to the public passage.

You state that there were three doors to Bergami's room, one of those doors opening into the garden?—Not from the room but joining the room.

Was there any door leading directly from off Bergami's room into the garden, without passing through into the passage, or intermediate room?—No, you must go into the little cabinet, as far as I recollect, into the little passage-room.

By that do you mean the room in which you understood a servant to have slept, when Bergami was ill?—That or the other, because I never saw a man sleep there, neither did I know whether he had done so.

Were there two doors in the small cabinet in which you state you understood that servant to have slept?—Only one to my recollection.

There was one joining to Bergami's room; another cabinet besides that cabinet in which you understood that servant slept?—I cannot be positive about that.

Mr. Brougham objected to the assumption that a servant had slept there: the witness had negatived his knowledge of the fact.

The Earl of Harrowby lamented that the House was in possession of no plan, and, without one, all possible attention could not fix the precise situation of the rooms.

The Earl of Rosslyn.—Were there not two ways by which a person could go from Bergami's room to that of the Princess, one by a public passage, another by a smaller passage, and the cabinet?—Yes, that is exactly the case.

Can you state the distance between the two rooms, or nearly?—I should think the breadth of your lordships' house, or further.

The Marquis of Buckingham.—If a person had gone from Bergami's room to the Princess's by the public passage, must he not have passed by the doors of the rooms in which Dr. Holland and other members of the suite slept?—Yes.

If a person had gone to Bergami's apartment by the other passage, would not that person have reached Bergami's apartment without passing by any door of any room in which any other person slept?—Yes.

Lord Calthorpe.—During the time that you were travelling on the Continent in the service of her Royal Highness, had you no opportunities at all of observing the manners and appearance of other couriers?—I had but one with us.

Had you no opportunity of observing the manners and appearance of other couriers whom you met in the course of your various journeys with her Royal Highness?—I never associated with any of them.

Did you never observe them?—Not particularly.

In a former answer you stated, that you considered the manners of Bergami superior to those of the lower class of couriers?—Of servants.

Do *you recollect the names of* the various persons whom you found

in the suite of her Royal Highness upon joining her at Leghorn?—Not one of them, except Hieronimus, the old servant.

The Lord-Chancellor at the request of Mr. Brougham.—You have mentioned two ways of going from the room of the Princess to that of Bergami, were there any doors to the intervening rooms in the passage to which you at first referred?—There were two from the passage.

Do you mean the public passage you have already spoken of?—Yes.

Have you not observed, since you entered her Royal Highness's service, that her Royal Highness was peculiarly fond of young children?—Very much so.

Did she not take extremely great fancies to young children?—Yes.

The Solicitor-General objected to this question; and the *Lord-Chancellor* observing that he did not know what might be meant by fancy, so used, it was erased.

The witness was ordered to withdraw, and it being a quarter past 4 o'clock, the House adjourned.

SIXTH DAY.—October 9.

After the usual forms HENRY HOLLAND, M. D. was called in, and having been sworn, was examined by *Mr. Wilde.*

Did you leave England as physician to her Royal Highness in the year 1814?—I did.

Did you proceed to Naples with her Royal Highness.—I did.

Did you remain the whole period of her Royal Highness's stay at Naples?—I did.

What description of visiters did her Royal Highness receive at Naples?—With a very few exceptions, she received all the principal nobility, both English and Neapolitan.

Where did you go to after you left Naples?—To Rome, and subsequently to Genoa.

Were you on board the Clorinde with her Royal Highness?—I was.

What description of visiters did her Royal Highness receive at Genoa?—All the English that were at Genoa.

Did you ever, during the period you were with her Royal Highness, observe that her Royal Highness avoided the English?—I did not.

What was the situation of the house occupied by her Royal Highness at Genoa, as to its publicity?—The house her Royal Highness occupied at Genoa, was about half a mile distant from the town, but in a part of the suburb very thickly inhabited.

When you say you saw other nobility there, English and Italian, am I to understand you as speaking from your own personal knowledge?—Yes.

I thought you said you were not there at the evening parties?—Not often; but I have been there once or twice.

State the persons you saw on the evenings you were there?—I really cannot now recollect any more names than I have already mentioned.

In 1819 you visited Pesaro, you have stated, and that one of the equerries, with William Austin, called upon you; which of the equerries was that?—Chevalier Vassali.

Did Bergami sup at her Royal Highness's table at Pesaro when you were invited there at that time?—Yes.

Did he dine there on the following day when you did?—He did.

What other persons do you recollect then dined there?—I do not recollect any but the persons belonging to her Majesty's household.

Did you know a person of the name of Bergami, in her Royal Highness's service?—I did.

Did he at any time dine with her Royal Highness, during her stay at Genoa, at her table?—He did not.

During the period that you were with her Royal Highness at the places you have mentioned, what was her Royal Highness's conduct towards Bergami?—Always that of a mistress to a servant.

What was the conduct of Bergami towards her Royal Highness?—I never saw it otherwise than unpresuming and respectful.

Was there any understanding as to the period during which you were to stay with her Royal Highness, previous to her leaving England?—It was generally understood between us, that I was to remain in her Royal Highness's service a year and a half or two years.

At what place did you quit her Royal Highness's household?—At Venice.

Had there been any conversation as to your quitting her Royal Highness's service, before your arrival at Venice?—There had at Milan.

At what suggestion was it that you went on to Venice?—At my own suggestion.

When you left her Royal Highness at Venice, did you then finally quit her service, or was it understood you were to return?—It was understood I was to return.

Did you leave any of the articles belonging to you in her Royal Highness's house with an intention of returning?—I did.

What was the occasion of your leaving her Royal Highness at Venice, and coming to England?—At Milan her Royal Highness had suggested to me, that if I desired it, I might have an opportunity of six weeks absence, to make a tour in Switzerland; in consequence of this, I expressed my own wish at this period, that, instead of going to Switzerland, her Royal Highness would allow me a short additional absence, from my wish to go to England on account of private affairs; to this her Royal Highness assented, and it then became merely a question, whether I should go forward to Venice or go immediately from Milan.

You have mentioned that her Royal Highness received all the principal nobility at Genoa who happened to be there; do you recollect any of the English nobility who visited her there?—Lord and Lady William Bentick, Lord Exmouth, Lord Malpas; generally, all the superior officers who were attached to the army at Genoa.

Cross-examined by the *Solicitor-General*.—Did you go from England with her Royal Highness?—I did.

Do you remember, when you were at Genoa, Bergami meeting with any accident?—I do not.

At Naples?—I do.

Was he in consequence of that confined to his bed for any time?—He was, during three or four days.

Do you know who was the servant who attended him during that time?—Majochi.

Did not Majochi during that time sleep in a small cabinet adjoining the room occupied by Bergami?—I am not aware where Majochi slept.

Do you remember that there was a sofa in that cabinet?—I do not.

Are you to be understood by that, that you do not remember one way or the other whether there was or was not?—I do not recollect one way or the other.

With respect to the situation of her Royal Highness's house at Genoa, you state that it was in the suburbs, but that the suburbs were populous; was it not within a court, and surrounded by a garden, or a garden extending through the whole of the back of the building?—There was a small garden in front of the house, and a terrace garden with a wood behind the house.

Were you in the habit of dining every day with her Royal Highness at Naples and at Genoa?—At Genoa every day, at Naples not.

Do you remember being at the masquerade at Naples, or the masked ball at Naples, that was given to the Neapolitan King?—I was not there.

Were you ever at a masquerade at the Theatre San Carlos when her Royal Highness was there?—I was.

With whom did her Royal Highness go there?—I was not aware till the following morning that her Royal Highness had been there.

Did you remain there during the whole or nearly the whole of the performance?—Only about an hour, as far as I can recollect; certainly a short time.

Are you to be understood that you do not know with whom her Royal Highness went to the theatre that evening?—I do not.

You have stated that, as far as you observed, the conduct of her Royal Highness towards Bergami was the conduct of a mistress towards a servant; have you upon any occasion ever observed any impropriety of conduct in her Royal Highness towards Bergami; or have you ever stated that you had made any such observation?—I never did observe any impropriety.

Are you acquainted with a minister at York?—I am.

Having reminded you of that circumstance, will you allow me to ask, whether you have ever stated to any person, that you disapproved of the conduct of her Royal Highness with respect to Bergami?—I never have.

Have you ever informed any person whatever, that you did not think the conduct of her Royal Highness correct, or any thing whatever to that effect?—I have not.

You are asked that, not merely with reference to the individual mentioned, Bergami, but whether you have made any observation to any individual whatever with respect to the conduct of her Royal Highness, derogatory to that conduct?—I am so satisfied of the negative, that I can venture to swear it.

We all know, Dr. Holland, that you have published some travels. I wish to know whether, in publishing them, you have had occasion to alter any opinion you had previously entertained respecting her Royal Highness.

Mr. Wilde objected to this question.

The Solicitor-General then put the following:—

Have you always entertained the same opinion, since you have had an opportunity of observing her Royal Highness, with respect to her conduct?—I feel it quite impossible to describe to my own recollection, the fluctuations of opinion I may have had; but this I am satisfied of, that I recollect no change whatsoever of opinion.

Did you ever state, or did you ever inform any individual whatever, that the conduct of her Royal Highness was such that no person

who had a regard to his character could continue in her service, or any thing to that effect?—I am satisfied I have not.

Did your duty lead you to be much about the person of her Royal Highness?—Very little.

You were engaged then in your own pursuits, your own studies principally?—Inasmuch as they did not interfere with my professional duties to her Royal Highness and her suite.

At Naples particularly, you were understood to state, that you were much engaged yourself?—Not more at Naples than elsewhere during my absence from England.

You were understood to say, you did not very frequently dine with her Royal Highness at Naples?—I did say so, or rather I said, that I did not always dine with her Royal Highness at Naples, and always did at Genoa.

Was not the principal opportunity which you had of observing her Royal Highness, that which was afforded at the time when you dined?—It was.

Except when you were required professionally to attend her Royal Highness, you did not attend her either in the forenoon or in the evening, but merely attended for the purpose of dining?—Except when her Royal Highness saw society in the evening, I did not.

During those occasions, when you did dine, Bergami acted as waiter at the table?—He did.

Both at Naples and at Genoa?—Both at Naples and at Genoa.

How long were you at Milan before you proceeded to Venice?—I believe exactly a fortnight.

Do you remember, during the time of your residence at Genoa, any individuals belonging to the family of Bergami joining her Royal Highness?—I do.

His sister Faustina?—I was not aware of that.

Do you mean that you were not aware that Faustina was his sister, or that you were not aware that Faustina entered into the service of her Royal Highness?—I was not aware that any person of that name entered into the service of her Royal Highness.

Did you know a person of the name of Martini?—I did not.

Was there a little child that came of the name of Victorine?—There was a little child came, whose name I did not know.

Was there a female came with that child?—I saw an elderly person, whom I believed to be the mother of Bergami.

The only female whom you recollect as having come with that child, and having entered the service at Genoa, was the person so described as the mother of Bergami?—I do not recollect any other, but it is perfectly possible.

Do you remember a person of the name of Louis Bergami entering the service?—I do.

In what capacity did he enter?—I am not aware.

Did you see him wait as a servant at table?—I did.

Did he wear a livery?—He did.

About what period of your residence at Genoa was it that Louis Bergami entered into the service of her Royal Highness?—I do not recollect.

Was it towards the beginning or towards the latter end, as far as you recollect?—As far as I recollect, towards the beginning.

How long did Lady Charlotte Campbell continue with you at Milan?—Till within three or four days of her Royal Highness's departure from Milan.

After she left, was there any lady in the service except Madame Oldi?—There was not.

How soon after Lady Charlotte Campbell left, did Madame Oldi enter?—As far as I recollect, two days afterwards.

You did not travel in the same carriage with her Royal Highness?—I did not; I have occasionally done so, but rarely.

The question refers to the journey from Milan to Venice?—I did not.

When Madame Oldi first came into the service at Milan, were you aware that she was the sister of Bergami?—I was not.

How long was it afterwards before you knew that she was the sister of Bergami?—I did not know it while in attendance upon her Royal Highness.

What period of time elapsed after Madame Oldi came into the service, before you ceased to be in attendance upon her Royal Highness?—About eight days.

When you arrived at Venice, at what hotel did you lodge?—At the Gran Brettagna.

Did her Royal Highness continue there during the whole period of her residence at Venice?—She did not.

How long did she remain there?—I rather think, in the hotel itself but one night.

Where did she go to then?—To a house immediately adjoining the hotel, and, I believe, belonging to it.

Was Mr. William Burrell of your party?—He was.

Did you and Mr. William Burrell go to the house with her Royal Highness, or did you remain in the hotel?—We remained in the hotel.

Did you dine with her Royal Highness at the house to which she removed, or did you dine in the hotel?—We dined in the house to which she removed.

With her Royal Highness?—With her Royal Highness.

Do you happen to recollect whether you dined with her every day during her residence at Venice?—I believe every day.

Did her Royal Highness quit Venice before you did, or did you go first?—I went first.

Did you ever afterwards rejoin her Royal Highness?—Never.

Do you know whether Madame Oldi could speak French?—I do not know.

Did you ever hear her speak French?—I always conversed in Italian with her.

Re-examined by *Mr. Wilde*.—You have been asked whether the house which her Royal Highness occupied at Genoa was in a garden; was it in a conspicuous situation, or a private situation?—In a conspicuous situation.

Was it a particularly conspicuous situation?—The house was raised upon a terrace.

Was it conveniently situated for receiving visiters from Genoa?—I believe it was.

You have stated when you returned to England; have you remained in England ever since?—No, I have not.

How long have you been in England since you quitted her Royal Highness's service?—I have been three or four times absent from England during that interval, which interval is nearly six years.

Have you generally resided in England during that period?—I have; my absences were always for a very short period.

Have you been practising as a physician in England?—I have, during the last five years in London.

Have you ever been examined by any one during that period respecting the conduct of her Royal Highness?—Never.

Has any person asked you to be examined during that period?—Never.

Examined by the Lords.

Lord Erskine.—Referring to the whole time, and to all the places in which you have stated you were attending upon her Royal Highness, did you ever observe any indecent, immodest, or improper behaviour in her Royal Highness?—I did not.

Earl Grey.—Have you at any time observed, on the part of her Royal Highness, any conduct calculated to bring disgrace upon the character of this country?—I believe I can answer decidedly not.

You were understood to state, that you have never been examined upon this subject, previous to the charge being brought against her Majesty before Parliament; was any application made to you by any person for information respecting her Majesty's conduct during the time you were in her service?—No application whatsoever.

The Earl of Lauderdale.—Did you attend Bergami during his short illness at Naples?—I did.

How did you go into his room, by what door?—I went in by a passage which communicated at right angles with the passage in which my bed-room was.

Then you had no occasion to pass through that cabinet which you say was adjacent to the room of Bergami?—As far as I recollect I passed through no cabinet in going from Bergami's room to mine.

In going from your room to Bergami's, you entered the corner of the grand corridor, and then into a little passage, and then into Bergami's room?—I did.

Do you recollect the dress in which Bergami waited at her Royal Highness's table at Naples?—I do not.

You have said that you do not recollect any female of the name of Faustina in her Royal Highness's service at Genoa; do you recollect any female who resided in the house arriving at Genoa about the time of the mother of Bergami and the little child Victorine?—My recollections are extremely indistinct upon the subject, and I do not at this moment recollect any such female, but it is very possible that there might have been.

Do you know the room in which her Royal Highness slept at Genoa?—I do not.

Adjacent to the room in which you slept, was there not a room in which Hieronimus slept at Naples?—There was.

Next to that room was there not a room in which William Austin slept?—There was.

Was there a passage out of that great corridor before you went into the little passage that led you to Bergami's room, was there an entry to the dining-room?—The only entry from the great corridor to the dining-room was through the small passage in which the door of my room was placed, as far as I recollect.

Then the door of the dining-room, by which you could get into that great corridor, was directly opposite to the door of your room, was it not?—No; in passing from the dining-room into the great corridor the door of my bed-room was on the right hand.

Where did that passage, that went out of the great corridor towards

your room, go to afterwards?—To the dining-room, it there terminated.

It did not go past the door of the dining-room, but ended there?—It went into the dining-room.

Earl Grosvenor here remarked, that the noble earl had put some of his questions to Dr. Holland, assuming that Dr. Holland had admitted the existence of the cabinet: which, in fact, he had not done, as would be found by a reference to the shorthand-writer's notes.

Lord Grantham said, that, for the sake of saving time, he would ask a question while that reference was being made.

A former witness has stated, that upon the same floor where the Princess's room and yours and Bergami's rooms were, there was a place used as a water-closet; do you recollect that place?—I do not.

Earl Grosvenor explained, that his only object in troubling the House was to show that Dr. Holland had said nothing about a cabinet, as had been assumed by the noble earl (Lauderdale).

Lord Winchelsea.—Did you ever see her Royal Highness and Bergami together after Bergami was raised to the rank of chamberlain?—I never did.

The Earl of Lauderdale.—Do you know whether there was a cabinet adjoining to Bergami's room?—From my recollection, opposite to the door of Bergami's room, there was a door into a small room, which may be called a cabinet or not.

Lord Kingston.—Do you, of your own knowledge, know any thing of the Queen for the last six years?—I believe the time since I quitted her Royal Highness's service was five years exactly in June last.

Lord Rous.—To whom did you dedicate the book of Travels which you have published?—There was no dedication.

Have you never said that you intended to have dedicated that book to the Princess?—I have not the slightest recollection that I ever said so.

Will you now say, on your oath, that you never said so?—I can only say, to the best of my recollection, that I never have said so.

Can you say positively that you never said so?—I do not recollect having ever entertained an idea of such dedication.

When the Countess of Oldi joined the Princess's party, was she introduced to you?—She was, as far as I recollect, by her Royal Highness.

What did her Royal Highness say upon that occasion?—I cannot take upon myself to recollect; I believe nothing more than announcing her name, and that the Countess of Oldi would accompany her Royal Highness to Venice; I recollect nothing more of the circumstance.

Did the Princess speak Italian?—She spoke it but imperfectly during my stay with her Royal Highness.

Did she state how she became acquainted with the Countess Oldi?—She did not.

Did it not appear very extraordinary to you that the Countess Oldi should have been introduced to you, without stating who the Countess Oldi was, or in what manner her Royal Highness had become acquainted with her?

Mr. Brougham submitted to the House that this question was inadmissible. The noble lord was assuming a thing which was not to be found in the whole four corners of the earth—namely, what was passing in the mind of an individual.

Lord Rous observed, that what he had stated was not the question he meant to ask, but only the prelude to it; which was this:—

Did you not ask who the Countess Oldi was?—I do not recollect that I did, it might be.

The Earl of Rosebery.—Do you recollect the Princess coming into Bergami's bed-room at the time you were dressing his foot during his illness?—Certainly she did not.

Do you recollect the Princess coming into Bergami's bed-room during any part of that illness?—To my knowledge never.

Lord Redesdale.—Did you ever attend any others of the Princess's suite at Naples during your stay there, besides Bergami?—I did.

Who were they?—I recollect an attendance on Hieronimus; I have attended her chamberlains during their stay at Naples.

Lord De Dunstanville.—Was there not a garden or a terrace attached to the house at Naples?—There was a garden.

Did you ever see the Princess and Bergami walking in that garden?—Never.

Did you ever see the Princess and Bergami walking in the garden at Genoa?—Never.

Did you ever see the Princess riding on a donkey or a jackass there, with Bergami attending?—Never; I know that she did ride in the garden, but I never saw her.

The Earl of Liverpool.—When the Princess of Wales introduced the Countess Oldi to you, did she introduce her or not as Bergami's sister?—She did not.

What length of time was there from the time that she introduced the Countess Oldi to you, till the time of your leaving Venice?—I believe about eight days.

Are you to be understood, that at the time you left her Royal Highness at Venice, you did not know the Countess Oldi to be Bergami's sister?—I believe I did not.

Lord Dynevor.—In what language did the Princess of Wales and Madame Oldi converse?—As far as I can recollect the circumstance, the Princess spoke some words of Italian; whether the Countess of Oldi spoke French or not I do not know.

You have stated, that during your stay at Genoa, you dined almost every day with the Princess?—Almost every day.

During that time, did Bergami ever sit down to dinner?—Never.

Did you dine every day with the Princess?—I believe every day; I may perhaps be allowed to remark, that I was absent on two or three short excursions from Genoa, one of which detained me two days.

The Earl of Harrowby.—Did you ever hear the Princess and Countess Oldi converse together in French? I do not recollect it.

Did you ever hear the Countess Oldi speak French at all?—I do not recollect; I always conversed myself with her in Italian.

What kind of Italian did the Countess Oldi speak?—It appeared to me very much the Italian spoken in Lombardy.

Is that *the Italian spoken by* persons of fashion and education?—I

have observed it to be spoken by persons of fashion and education when converſing with each other; but almoſt all ſuch perſons of faſhion and education are capable of ſpeaking the purer Italian.

Did you ever hear the Counteſs Oldi ſpeak the pure Italian?—I find it very difficult to ſay, on recollection, whether it was ſo or not.

Was converſation in the dialect of Lombardy eaſily intelligible to a perſon who knew Italian from books only?—I can only ſay, from recollection, that I did not find any difficulty in converſing with the Counteſs Oldi; my recollection will not carry me beyond that.

Was that language eaſily intelligible to a perſon who had a very imperfect acquaintance with Italian?—To that queſtion I find it difficult to give an anſwer; I may remark that I had very few opportunities of converſing with the Counteſs Oldi.

Lord Auckland.—Did the language of Counteſs Oldi differ more from pure Italian than the Engliſh language ſpoken by ſome Scotch perſons of education and family differ from pure Engliſh?—I find it impoſſible, from the ſmall recollection I have, to anſwer that queſtion.

The Lord-Chancellor.—Did Bergami ever dine at her Royal Highneſs's table when you dined there?—Never.

Lord Calthorpe.—Do you recollect her Royal Highneſs ever, upon any ſuch occaſion, having expreſſed herſelf diſſatisfied with the ſituation of her houſe at Genoa?—I do not remember her Royal Highneſs having made ſuch expreſſion; but I do recollect her Royal Highneſs at one time going to ſee another houſe in the neighbourhood of Genoa, which I underſtood, for the moment, ſhe thought of taking. She did not take it.

Did you hear any reaſon aſſigned by her Royal Highneſs for wiſhing to change her reſidence?—I recollect that a reaſon was aſſigned, but whether by her Royal Highneſs I do not recollect; that ſhe wiſhed to have a ſituation where there was greater tranquillity; but I do not recollect that that reaſon came from her Royal Highneſs herſelf.

Was then the ſituation in which the houſe that ſhe occupied at Genoa ſtood peculiarly ſubject to interruption of any kind, that might have rendered it annoying?—I am not aware that it was.

You were underſtood to ſtate, that during the whole time in which you were in her Royal Highneſs's ſervice Bergami occupied the ſituation of a menial ſervant?—He did.

Do you recollect at any time, or under any circumſtances, her Royal Highneſs conducting herſelf towards Bergami in a manner that you could conſider at all inconſiſtent with the relation in which a Princeſs of Wales ought to ſtand towards a menial ſervant?—I muſt remark, in answer to that queſtion, that her Royal Highneſs's demeanour towards all her ſervants was extremely familiar. I ſhould ſay at once, that I never obſerved any difference between her manners to Bergami and her manners to any other of her ſervants; I may be perhaps allowed to add to that, to her principal ſervants.

Then you are correctly underſtood as intimating that the degree of affability that her Royal Highneſs ſhowed towards Bergami, was fully to be accounted for by that kindneſs and condeſcenſion which ſhe generally ſhowed to all her upper ſervants?—I have never obſerved myſelf any difference in the degree of kindneſs or familiarity to him in preference to the other principal ſervants.

At what period did you join the ſervice of her Royal Highneſs?—When her Royal Highneſs left England.

In 1814?—In Auguſt 1814.

How long did you remain in her ſervice?—Exactly ten months, from

Auguſt 1814 to June 1815; my ſervice and my ſalary from her Royal Highneſs did not ceaſe in June 1815.

Did you conſider Bergami as an upper ſervant in her Royal Highneſs's ſuite?—As an upper ſervant.

The Lord-Chancellor.—Did any of thoſe principal ſervants, whom you mentioned in anſwer to the queſtion laſt but two, dine at the Queen's table?—None.

The Lord-Chancellor at the requeſt of Mr. Brougham.—Has your ſalary ceaſed ſince the time referred to?—It has.

When?—Fifteen months exactly from the time I entered into her Royal Highneſs's ſervice.

Had you any penſion after retiring from her Royal Highneſs's ſervice?—None whatever.

The witness was directed to withdraw.

CHARLES MILLS, Esq. was next called in, and having been sworn, was examined by *Mr. Denman.*

You generally reſide at Rome?—I do.

Did you reſide there in the ſummer of 1817?—I did.

Have you had the honour of ſeeing the Princeſs of Wales there?—I called upon her Royal Highneſs the day after her arrival.

Do you know how long ſhe remained at Rome?—I remained there myſelf but twelve days, therefore I cannot tell how long ſhe remained at that period.

You left it before her Royal Highneſs?—I did.

Had you the honour of her Royal Highneſs's acquaintance before that period?—I had.

During the twelve days you have ſpoken of, were you repeatedly at her Royal Highneſs's houſe or hotel?—I dined at the Gran d'Europa moſt days while her Royal Highneſs remained there.

With her Royal Highneſs?—Yes, with her Royal Highneſs.

Can you inform the Houſe whether at that time ſhe was viſited by perſons of high rank?—She was.

Will you mention ſome of their names?—The perſons that I ſaw at her Royal Highneſs's table, were but few, the Baroneſs Ancajanni who was appointed by the government to attend her Royal Highneſs.

Was any other lady of rank appointed by the government to attend upon her Royal Highneſs?—The Duchess Zagarolla.

Was ſhe attended by a guard of honour alſo?—She was, and had all other marks of diſtinction prepared for her, ſuch as a box to ſee the ceremony of the Corpus Domini, the ſame as other Royal perſonages who were then reſident at Rome.

You have mentioned the two ladies appointed to attend upon her Royal Highneſs, as having dined with her; do you recollect whether other perſons of rank of either ſex dined with her alſo?—I remember Lord Kilworth to have dined with her: the Abbé Taylor was her conſtant gueſt.

Did any of their eminences dine there?—I never ſaw them.

At other times beſides dinner did perſons of rank pay their reſpects to her Royal Highneſs, and attend her parties?—Her parties had not commenced while ſhe remained at the Gran d'Europa, but perſons of rank came to pay their evening viſits.

Was Bergami at that time her Royal Highneſs's chamberlain?—He was.

Did he in that *character dine at her* Royal Highneſs's table?—He did.

Have you often ſeen her Royal Highneſs and her chamberlain Bergami in *company together?—Frequently.*

Did you ever ſee the ſmalleſt impropriety of conduct between thoſe two individuals?—Never.

Does that anſwer apply to the period of her Royal Highneſs being at Rome while you were there, and to other times alſo at which you may have ſeen her?—Perfectly.

Did you pay your reſpects to her Royal Highneſs at Peſaro in the year 1819?—On my return from Venice I called at her Royal Highneſs's Villa at Peſaro.

How long did you remain there?—I remained there two days; her Royal Highneſs was out airing when I called, but on her return ſhe ſent her carriage with one of her equerries and William Auſtin to deſire that I would come to her houſe that evening.

And you went?—I did.

How long did you remain on that viſit?—I arrived at her houſe about ſeven o'clock or eight o'clock perhaps; I remained there the evening, ſupped, and returned to the inn.

Did you pay your reſpects to her Royal Highneſs on the following day?—Her Royal Highneſs ſent her carriage and her equerry to ſhow me whatever was worth ſeeing in the town of Peſaro.

Did you afterwards wait upon her Royal Highneſs at her Villa?—I returned there to dinner.

And dined with her?—And dined with her.

Did you ſpend the evening in company with her Royal Highneſs?—After having walked with her Royal Highneſs about the grounds, I remained about an hour, and then proceeded on my journey, as I wiſhed to go as far as the fair of Sinigaglia, it being the laſt day of the fair.

Had you the honour of paying your reſpects to her Majeſty after ſhe became the Queen of England?—I was at Rome when her Majeſty arrived there.

When was that?—In 1820.

State the month, and if possible the day of the month?—I hardly know the month, it might be February; her Majeſty had received an account of the King's death.

Had ſhe aſſumed the title and dignity of Queen of England?—She had.

Had ſhe two ladies of honour then appointed to attend her?—She had not.

Was any guard of honour in attendance at her hotel?—There was none.

Nevertheleſs, did perſons of rank, both of Rome and England, do themſelves the honour to pay their reſpects to her Majeſty?—Several.

Have the goodneſs to name them?—The Counteſs ——— I ſpeak of thoſe who wrote their names in her Majeſty's book.

Did you ſee them do ſo?—I ſaw the book.

What perſons of rank did you ſee attending at her Majeſty's hotel, or paying their reſpects there?—I ſaw none; I only heard of it, and ſaw it in the book.

Do you know whether it was underſtood that the funeral of his late Majeſty had then taken place?—I think it had.

Was Bergami chamberlain to her Majeſty in the year 1819, and in the year 1820 alſo?—He was.

Was there any difference in the general appearance of her Majeſty's houſehold between thoſe three periods?—None.

Did you ever ſee any thing in the conduct of those two parties towards *each other in* the ſlighteſt degree derogatory to the honour of the Engliſh *empire, or likely* to wound the moral feelings of this country?—Never.

Independently of the conduct of her Royal Highneſs and of her Majeſty towards Bergami, did you in other reſpects ever perceive that her Majeſty conducted herſelf, either in public or in private, in any way to which a juſt exception could be taken?

The Attorney-General objected to this question, as being not only a leading question, but one entirely travelling out of the point of inquiry.

Mr. Denman with much animation contended for the propriety of the question he had put. Did not the bill, he asked, both in letter and spirit, arraign her Majesty's conduct in public and in private? Did it not describe it as being derogatory to the dignity of the crown, and disgraceful to the moral feelings of the people of this country? Were not these the terms used to define her Majesty's conduct in the very preamble of the bill? Here is then a man who has seen her Majesty's conduct in Italy at three different periods; who had had frequent opportunities of witnessing it; and who positively and distinctly, speaking from his own actual knowledge, negatives the assertion in the bill. Was he then, while combating the bill, to be refused the benefit of so material and so proper a witness.

The Attorney-General said he did not mean to restrict his learned friend from going into any inquiry which he deemed material—he only objected to his proceeding to question the witness in so leading and so general a manner.

Mr. Brougham denied that the question just put was a leading one. Her Majesty's conduct was generally impugned by the bill, and he wanted to show that it was unjustly impugned. This witness had competent means of forming an opinion.

The Earl of Liverpool said he certainly saw no objection to the question being put; but he could not help suggesting to the learned counsel who put it, whether, if evidence on the one side of general conduct, without touching on the special charge, were admitted, it would not be open to the other side also to adduce evidence as to general conduct?

The Lord-Chancellor saw no legal objection to the question.

The question was proposed.

I never did.

The Earl of Liverpool then repeated his observation, that, though *not objecting* to the question, he still

thought that if answers to questions respecting general conduct were let in at one side, that line of examination would then be open to the other.

The Lord-Chancellor said he did not apprehend this witness was asked as to general conduct in the larger sense, but merely what was his own opinion of conduct, upon his own observation of that conduct, on particular occasions.

Mr. Denman.—At all the times at which you have seen her Royal Highneſs and Bergami together, did he treat her with the reſpect that was due to her exalted rank?—I never ſaw him behave otherwiſe than with the utmoſt reſpect.

There was no degrading familiarity?—None whatever.

Croſs-examined by the *Attorney-General.*—Did Bergami dine at the table every time you dined with her Royal Highneſs at Rome?—He did.

Where did he ſit uſually?—He had no particular place that I can recollect; I have ſeen him at various parts of the table.

You were underſtood to ſay, that beſides ſeeing Bergami at table with her Royal Highneſs, you have ſeen her Royal Highneſs and Bergami at other places in Rome?—I ſaw them attending the Corpus Domini together; I ſaw Bergami in attendance upon her Royal Highneſs when they were at the ceremony of the Corpus Domini.

In what manner was he in attendance at that ceremony?—As chamberlain.

Where was her Royal Highneſs?—In a box prepared for her by the government.

Where was Bergami?—Behind her Royal Highneſs.

Standing or ſitting?—When I ſaw him, he was ſtanding.

Were there any other of her ſuite with her at that time?—Several.

How many times did you dine with her Royal Highneſs at Rome?—Upon the firſt occaſion I dined with her three or four times, certainly.

Three or four times?—Three or four times.

As many as three or four times?—Quite as many.

You ſtate, that, beſides the perſons whoſe names you have enumerated, other perſons of diſtinction called upon her Royal Highness at that time at Rome, in the year 1817; can you enumerate the names of any of thoſe other perſons?—The ladies that were in attendance upon her were generally there, and many others of the Roman nobility, certainly, and the cardinals; I met the Cardinal Gonſalvi going up the ſtairs as I came down one day.

If there were many other perſons, probably you can have no difficulty in enumerating ſome of their names?—I uſually dined with her Royal Highneſs, and after dinner I quitted her; the perſons uſually came in the evening.

Were you there in the evening?—Once or twice; her Royal Highneſs was lodged at the inn at this time; ſhe had no eſtabliſhed houſe at Rome.

When you ſay, that other perſons of diſtinction viſited her Royal Highneſs in the evening, are you ſpeaking that from what you have heard, or from your own perſonal knowledge?—From my own perſonal knowledge, the evening that I paſſed there.

Then the evening or evenings you were there, can you enumerate the names of any of thoſe persons of distinction, beſides thoſe you have already *mentioned*?—The evening I was there, I do not remember other names *than thoſe I have* mentioned.

You have ſtated, that in the year 1819 you viſited her Royal Highneſs at Peſaro, and when you called ſhe was not at home, but that one of her equerries and William Auſtin afterwards called upon you; who was that equerry?—The Chevalier Vaſſali.

Did Bergami ſup at Peſaro with her Royal Highneſs and yourſelf?—He did.

Did he dine with you the following day?—He did.

What other perſons dined at Peſaro on that occaſion?—There were no perſons but thoſe of her Royal Highneſs's eſtabliſhment.

Can you mention the names of the perſons of her Royal Highneſs's eſtabliſhment who dined with you at Peſaro?—Vaſſali, Bergami, the Counteſs Oldi, William Auſtin; the names of two other perſons who were at table I was unacquainted with.

Was Louis Bergami one of thoſe other perſons?—I cannot ſay that he was, for I am not ſure that I am acquainted with his perſon.

Of courſe, whether he was one of thoſe two whom you dined with, you cannot ſay one way or the other?—I cannot.

Are thoſe occaſions that you have mentioned the opportunities you had of ſeeing her Royal Highneſs, at Rome, and at Peſaro?—They were.

And the only occaſions?—The only occaſions.

Re-examined by *Mr. Denman*.—Had you the honour of being acquainted with her Royal Highneſs before ſhe left England?—I had.

Examined by the Lords,

A Peer.—Did you feel any objection to ſitting down to table with Bergami?—I cannot ſay that I did.

You are underſtood to have ſaid you uſually reſide at Rome?—I have ſaid ſo.

When did you come laſt from Rome?—I left Rome in the month of April laſt.

Did you then leave Rome in conſequence of receiving any intimation from hence that there was to be, or likely to be, a proceeding againſt the Queen?—Not at all; I came on my private affairs.

The Earl of Liverpool.—In the year 1817, when you were in the habit of viſiting her Royal Highneſs at Rome, did you ſee any Engliſh lady in her ſociety?—At the period of the year that her Royal Highneſs came to Rome, there were but few Engliſh. I do not remember to have ſeen any Engliſh lady.

The Earl of Mansfield.—You ſay that on the laſt occaſion, at Rome, her Majeſty had aſſumed the ſtyle and title of Queen of England. When ſhe left Rome, do you know whether her paſſports were applied for in that name?—I do know it, from hearing it from perſons.

The Lord-Chancellor interposed, and said that the way to put the question would be to ask if the witness knew any thing of an application for passports.

The Earl of Mansfield.—Do you know of any application for paſſports for the Queen?—I know there were applications to the Britiſh conſul.

Was it by the ſtyle and deſignation of Queen of England?—Yes.

The Attorney-General hoped the witness would be asked how he knew this.

The Lord-Chancellor.—Witneſs, how do you know that paſſports were applied for in the name of the Queen of England?—Her Majeſty told it to me.

The Lord-Chancellor said, that not being evidence, it *must be struck out.*

The Lord-Chancellor.—Did you know that Bergami had been a ſervant and waited at table before you ſaw him?—I only knew it by common report.

This question and answer were also ordered to be struck out.

Viscount Falmouth.—When you dined or ſupped in company with the Counteſs Oldi, were you introduced to her?—I was introduced to her the firſt time I ſaw her.

Did you make any obſervation upon the manners of the Counteſs Oldi?—Her manners were unobtruſive and natural, I ſhould ſay.

Did you conſider that they were the manners of an Italian lady?—I did not conſider them otherwiſe at all.

You conſidered that the Italian ſhe ſpoke was good, was pure Italian?—She ſpoke with the accent of Lombardy, as all perſons from that country do, that I have ever converſed with.

You did not conſider that the accent of Lombardy was indicative of any vulgarity?—I did not.

Lord Ellenborough.—Was the language of the Counteſs Oldi grammatically correct?—I am not able to anſwer that queſtion; I do not conſider myſelf ſufficiently verſed in the Italian language to anſwer that queſtion certainly.

Are you able to ſay whether the language ſpoken by the Counteſs Oldi was generally correct; did you ever obſerve any decided errors?—I never did.

Is there not a difference in the dialect of Lombardy, as well as in the accent of Lombardy, from other Italian?—I am not able correctly to anſwer that queſtion; I have not lived ſufficiently in the Milaneſe to anſwer that queſtion.

On what occaſion were you firſt introduced to the Counteſs Oldi?—In 1817, when her Royal Highneſs arrived at Rome.

Earl Grey.—How long have you been in England?—I arrived in May.

Since your arrival in England, and previous to the charge being brought in Parliament againſt the Queen, was any application made to you for ſuch information as you might have reſpecting her conduct when you had ſeen her in Italy?—Never.

The witness was directed to withdraw.

JOSEPH TEUILLE was next called in, and having been ſworn, was examined by *Mr. Williams*, through the interpretation of *Mr. Pinurio.*

Were you formerly colonel upon the ſtaff of the Viceroy of Italy?—Yes.

And afterwards upon the ſtaff of France?—Yes.

Are you a chevalier of the orders of the Iron Crown and the Legion of Honour?—Yes.

Had you a brother who was a general of diviſion?—Yes.

Do you know Bergami?—Yes.

Where did you firſt know him?—I knew him filling the functions of quarter maſter (Mareschal de Logis) in the firſt Italian regiment of huſſars.

In what year was that?—Towards the end of the year 1800 and the beginning of 1801; it was the eighth or ninth year of the French republic.

Was that brother, of whom you ſpoke juſt now, the general that commanded Bergami at that time?—My brother, the general of brigade, commanded a brigade of cavalry, compoſed of two regiments, the firſt regiment of huſſars, and a regiment of chaſſeurs.

Were you aid-de-camp to your brother?—I was aid-de-camp to my brother, the General Teuillé.

What was the conduct of Bergami at that time?

Mr. Parke objected to the question on the ground that it did not go directly to affect the merits of the case.

The Lord-Chancellor thought the question might be put.

The question was therefore proposed.

The conduct of an inferior officer, non-commiſſioned officer, who has never done any thing to reproach himſelf with; in ſhort, the conduct of a good ſoldier.

Was General Galimberti acquainted with Bergami at that time?—Yes, he was.

Did they come from the ſame part of the country?—They are of the ſame country.

Did you ever ſee Bergami at either of the parties, either dinner or evening parties of the general?—No.

Did you continue acquainted with Bergami at that time, or was there ſome interval before you ſaw him again?—A great deal of time intervened.

Did you ever ſee Bergami at the evening parties of the general?—No, I did not ſee him; but I know that he went to the houſe of Monſieur Galimberti.

As there was ſome interval, where did you ſee Bergami next; in what country, and at what time?—On the frontiers of Spain.

In what year or years?—It was either in the year 1808 or 1809; it was at the time when Marſhal St. Cyr commanded the diviſion of the French army which proceeded to Spain, but I cannot exactly ſay the time, but it was about that time.

In whoſe ſervice was he at that time?—He belonged to the houſehold of General Pino, who commanded a diviſion of the Italian army.

Do you know in what manner he was treated by General Pino?—With a great deal of confidence, becauſe he was the perſon who had General Pino's whole confidence.

Did you viſit General Pino yourſelf?—I viſited General Pino when the buſineſs of the ſervice required it.

Did you ſee Bergami on thoſe occaſions?—I have ſeen him ſometimes; not always.

Do you know, of your own knowledge, whether he occaſionally dined with General Pino at the general's parties?—I cannot affirm that.

In what eſtimation was he held at that time by General Pino and the officers; how was he received and treated by them?—With the greateſt confidence; as a man who enjoyed the whole confidence of a perſon in the ſituation of General Pino.

In what eſteem was he held by the officers?—He was very well liked and eſteemed as an honeſt man, *(comme un honnête homme.)*

Croſs-examined by *Mr. Parke.*—Did you know Bergami when he was in a priſon at Lodi?—I never heard any thing of it.

You ſay that he was in the houſehold of General Pino, was he not a ſervant in General Pino's family?—He was as confidential courier *(particulier)* of General Pino, and intruſted with all his affairs, with all the affairs of his houſe.

The Duke of Clarence here expressed his dissatisfaction at the translation of the last answer. The French word was *particulier*, and he should like to be informed whether that word had ever been translated "confidential."

The Interpreter.—It has different meanings, it may mean confidential, or his private courier.

Mr. Parke.—What do you mean by the term "*particulier*;" a private courier, or in what other ſenſe do you uſe that word?—He was a courier particularly attached to General Pino, as a perſon of truſt or confidence.

You did not ſee any thing of Bergami between the year 1808 or 1809, when you ſaw him in the ſervice of General Pino?—No.

At what period in the year 1808 or 1809, was it you ſaw him in the ſervice of General Pino?—I have already ſtated that I do not particularly recollect the year; it was when General Pino's diviſion was marching towards Barcelona.

Can you ſay at what time of the year it was?—It was at the beginning of winter.

You cannot ſay whether that was the beginning of the winter of 1808 or 1809?—I cannot preciſely ſtate the period; I know it was the beginning of winter.

How long had you an opportunity of seeing him in General Pino's ſervice?—As a diviſion does not always remain together, a brigade which was detached from the reſt of the diviſion; that being the caſe, I cannot ſay exactly how long he remained where I was.

Was the army in march at the time you knew him?—We were not actually in march, but we were about to move in order to paſs the river Fluvia.

Did you ſee whether Bergami was in a courier's dreſs or not?—Always in common clothes.

Have you been in England before you were here this time?—Never.

When did you come to London?—I firſt came to London nearly ſix weeks ago, or a month and a half ago.

Have you remained in England ever ſince you came?—The firſt time I remained in England twenty days.

Where did you go afterwards?—To Paris, where I am eſtabliſhed.

Did you remain at Paris, or did you go any where elſe?—I never moved from Paris, for we cannot quit that place without leave from the general of diviſion and the miniſter of war.

Were you at Beauvais when you went to Paris?—In going to Paris I was with a meſſenger; the road to Paris is through Beauvais, but it ſo happens that that town is paſſed at night, becauſe it is with a meſſenger who never ſtops.

You are underſtood to ſtate, that you paſſed through Beauvais in the night-time?—Yes, becauſe the courier regularly paſſes through Beauvais in the night, and I left Calais with the courier, who goes on regularly without ſtopping.

Do you know a perſon of the name of Roſſi?—I have known ſeveral perſons of the name of Roſſi.

Do you know a perſon of the name of Roſſi who comes from Lugano?—I know a family of the name of Roſſi who are of Lugano.

Did you ſee that perſon either at Beauvais or at Paris?—I ſaw him once at Paris.

Was that when you were at Paris the laſt time?—No, it was previouſly to my coming to England the firſt time.

How long ago is that?—It was previouſly to my coming, it may be between two and a half and three months ago.

Had Roſſi any perſons with him that were coming from Lugano?—I do not know.

Had he any persons with him at the time you saw him?—He was alone, there was nobody with him.

Had you heard of the tumult that had occurred at Dover at that time?—I read the account of it in the French papers.

Did you communicate that to Rossi?—No, there was nothing mentioned of that.

At no time at Paris?—I never spoke of it to him, because I saw him but once, and that was only for a quarter of an hour at the most.

That was the only time you saw him?—It was the only time; and I only remained with him, perhaps, a quarter of an hour.

Who applied to you to come here?—The Queen, by a letter of her's.

Examined by the Lords.

Earl Cathcart.—At the time the first hussars were in the brigade commanded by your brother, what was the rank next above that of a private hussar?—The first or lowest degree is the common hussar, then comes brigadier, or corporal, then mareschal de logis, that is not the same thing as a quartermaster.

Do you mean that mareschal de logis is that which is most equivalent to what a serjeant is in the foot?—It corresponds with the rank of serjeant in the infantry.

You are understood to have said, that you saw Bergami confidentially employed as a courier by General Pino?—

The following question and answer was then read over to the witness:—

"What do you mean by the term "particulier;" a private courier, or in what other sense do you use that word?—He was a courier particularly attached to General Pino, as a person of trust or confidence."

Did you not understand Bergami at that time to be General Pino's own servant?—There is some difference; a particular courier, attached to a person of rank, is not looked upon as a servant, as a domestic in Italy.

From whom did you understand that he received his salary?—I know nothing of it, because I did not belong to the household of General Pino; I was a superior officer there, and could not meddle with General Pino's private affairs.

You did not understand that he was in the service of the public, or of any department of public service?—I have twice stated that Bergami was attached as courier particular to General Pino; further I cannot tell, because I did not belong to the house of General Pino; being a superior officer, I did not trouble myself with his private affairs.

The witness was directed to withdraw.

CARLO FORTI was next called in; and having been sworn, was examined by *Mr. Brougham*, through the interpretation of the *Marchese di Spineto*.

Were you a courier in the service of her Royal Highness?—I was.

When did you enter it?—On her departure from Milan.

Do you recollect whether that was in the year 1817?—Yes.

In whose service were you immediately before?—Before I entered the service of her Royal Highness I was in the service of the Viceroy of Italy.

What were you in the Viceroy's service?—As chief cabinet courier.

You have said, that you entered the Princess's service at the time that she was going away from Milan; where was she then going?—She was going to Rome.

Did you apply to be taken into her service?—I did.

From what motive did you make that application?—Because at that moment I was out of service.

You have stated, that the Princess was going to Rome, have you yourself any relations there?—Brothers.

Any other near relations?—The Duchess of Torlonia.

The wife of the banker there?—Yes.

What relation is the duchess to you?—She is my aunt.

On the journey from Milan to Rome, in what carriage did the Princess travel?—In a small English landaulet.

How many other carriages had her Royal Highness with her upon that occasion?—Two more.

What sort of carriages were those two?—One was a bastardella, and another was a caratella or calash.

What sort of a carriage is a bastardella?—It is a covered carriage, with four seats inside.

Was the landaulet of which you have spoken an English carriage?—It was.

Was it a different looking carriage from the bastardella?—Certainly.

Was that a carriage of a perfectly different appearance?—Quite so.

Was it also perfectly different in appearance from the caratella?—Certainly.

Had her Royal Highness any other carriages than those three with her upon that journey?—No.

Upon that journey, in which of the three did her Royal Highness herself travel?—In the landaulet.

Had the landaulet glasses, as is usual with such carriages?—It had.

Had it Venetian blinds?—It had.

Had it any curtains?—It had.

What sort of curtains?—Silk.

Do you mean silk curtains which drew aside, or which drew up and down with a spring?—The curtain was pulled down by the means of two strings, which kept it confined, and was lifted up by a spring.

Do you remember her Royal Highness leaving Rome to go to Sinigaglia?—I do.

Did her Royal Highness travel by night or by day?—By night.

Do you know where they slept on the first night on the road?—On the road.

Where did her Royal Highness rest the first day on the road?—At Otricoli, at nine in the morning.

Where did her Royal Highness rest the second day?—At ten in the morning, at Nocera.

About what time did they arrive at Sinigaglia?—On the following day, at eleven o'clock.

Do you know a person of the name of Sacchi or Sacchini, who is in her Royal Highness's service?—I know Sacchini.

Did he accompany her Royal Highness on the journey you have just been speaking of?—He did.

How did he travel upon that journey?—From Milan to Ancona on horseback, and from Ancona to Loretto; and from Loretto to Rome, he set out a day before her Royal Highness in the caratella in the

evening, and there I mounted myself on horseback, and accompanied her Royal Highness as far as Rome.

Did you mount on horseback at Ancona or Loretto?—At Loretto.

From Rome, when her Royal Highness went to Sinigaglia, how did Sacchi travel, and how did you travel?—He travelled in the caratella before, and I on horseback with the carriages.

How long before did Sacchi set out upon that journey in the caratella?—Two hours before.

What was his business to do on that journey, going before her Royal Highness?—To order horses, and to pay for the horses.

How did you travel yourself upon that same journey?—Always on horseback.

Did you accompany the carriage on horseback?—Always.

When you came near any stage, did you go before her Royal Highness's carriage?—About half an hour before reaching the end of the stage.

Do you mean to say that, except that half mile before reaching the end of the stage, you always rode close to her Royal Highness's carriage?—I do.

Did Sacchini order horses for her Royal Highness in the way you have described, going before her Royal Highness in the caratella the whole of the way from Rome to Sinigaglia?—He did; and he paid for them at the same time.

Did any other person ride as a courier with her Royal Highness on that journey, except yourself?—No, there was no other.

If there had been any other, must you have seen him?—Certainly, because I was always there.

Did any other courier or person on horseback, except yourself, accompany any of the other carriages upon that journey?—No one except myself.

Who travelled with her Royal Highness in the landaulet upon that occasion?—Her Royal Highness, Countess Oldi, Bergami and Victorine.

In whose lap did Victorine generally sit upon that journey?—Very often she was on the knees of her Royal Highness.

Did you see her also in the morning upon the Countess Oldi's knees sometimes?—Sometimes.

Where did the Countess Oldi sit in the carriage?—In the middle.

Do you mean in the middle between the Baron and Her Royal Highness?—Her Royal Highness on the right, the Baron on the left, and the Countess in the middle.

Do you recollect, whether during any part of the journey from Milan to Rome, or from Rome to Sinigaglia, the Countess Oldi was in the other carriage from her Royal Highness?—At Loretto she fell ill, and went in the second carriage.

Whose place did she take in the carriage?—She took the place of Demont.

Where did Demont go when Madame Oldi took her place?—She took the place of Madame Oldi.

Do you mean she took Madame Oldi's place next her Royal Highness in the middle of her landaulet?—I do.

Was this upon the journey from Loretto to Rome, or from Rome to Sinigaglia, that this accident happened?—From Loretto to Rome.

After leaving Rome to go to Sinigaglia, did Demont, or any body except Madame Oldi and the Baron, ever travel in the carriage with her Royal Highness?—There did not.

On that journey, was Madame Oldi always in the carriage and always in the middle, as far as you saw?—She was.

Did you always see her in this situation in the morning, when her Royal Highness arrived any where?—Morning as well as evening I saw her, for I was always there.

In travelling as a courier with the carriage of her Royal Highness, was it your practice for any purpose to go up to the carriage for the purpose of speaking to her Royal Highness, or any other person in the carriage, at any time?—When they arrived at the end of a stage, and the carriage stopped, then I knocked against the door of the carriage, and I asked whether they wanted any thing.

In travelling in that way by night, in what way were the windows of the carriage?—In the front there was a glass, and on the right and left by the side sometimes during the night they put up the Venetian blinds.

Could any air, though in a small quantity, then, when the glass was down, and the window altogether open, enter by the Venetian blinds?—There was the air that came in by the means of the spring opening the Venetian blinds.

Do you remember about the time that the change took place, and Madame Oldi going into the other carriage, and coming back, any accident happening?—At Foligno the horses ran away, but this happened in going to Rome.

Do you remember on that occasion any accident happening to the work bag, or any other bag of one of her Royal Highness's maids?—I do not.

Did that accident at Foligno, the horses running away, happen at the time that Madame Oldi changed her place in the carriages?—It did.

Did you ever see the Baron kiss the Princess at any time upon taking leave of her, or at any other time?—I never saw him kiss th Princess.

Did you ever see the Baron take leave of her Royal Highness upo any occasion?—Yes, I have.

What did the Baron do, in taking leave of her Royal Highnes when you saw him?—He kissed her hand, and nothing else, with muc respect.

Did you yourself, on taking leave of her Royal Highness, on a occasion, kiss her hand?—I have.

Did the other members of her Royal Highness's suite do the sa thing?—Yes, equerries, chamberlain, and all those gentlemen w came to pay visits to her Royal Highness.

Were you in the habit of kissing the hand of persons of rank w whom you had formerly served as courier?—I did so to the vice-qu as well as to the Empress Josephine.

Cross-examined by the *Attorney-General*.—Are you still in t service of her Majesty?—I am.

Did you travel with her as courier when she came to this count —I did.

When did you last see Bergami?—The last time I saw him at St. Omers.

Did the Baron Bergami travel with her Majesty the Queen as fa as St. Omers?—He did.

Do you know the wife of Bergami?—I do.

Where does she live?—At Milan.

Bergami has the title of Baron della Franchina?—He has.

Is his wife styled the Baroness della Franchina?—I never heard that so.

Have you ever seen Bergami's wife in company with her Royal Highness?—I have never seen her.

Whereabouts does Bergami's wife reside, at Milan, or the neighbourhood of it?—She lives in Milan.

In what part of Milan?—She lives near the Porta Ticinese; but I should know the streets very well, I should be very well acquainted with the streets to tell you what the street is.

Have you ever been in the house where she lives?—I have.

What sort of a house is it in which she lives?—It is a neat house, that fits a private individual.

In what manner does the wife of Bergami live there?—She lives as all other persons can live.

In what sort of style or situation?—In the style of a private person.

Describe more particularly the style in which she lives?—For my part, to tell the truth, I have never been in her house to inquire what she does or does not do.

Has she any servants?—She has servants, and a waiting maid.

How many servants?—She has a man servant and a maid who performs the office of a waiting maid.

How long has she lived in the house in which she now resides?—I have always seen her there, but I know not where she lived before.

Do you know the name of the man servant who attends her?—I do not know, because I have never been acquainted with him.

How do you know that she has a man servant?—I have seen him in the house when once I went to see, but his name I do not know.

Then you have been in the house?—I have just told you that I have once been in her house.

When was that?—How do you expect that I should remember that; I have been once; it may be about a year ago.

Do you mean to say it was about a year ago?—I do.

Upon what occasion was it that you went to the house a year ago?—I carried a letter to her.

From whom?—From her husband.

Were was Bergami at that time?—He was at Pesaro.

Did you go from Pesaro to Milan with this letter?—I did not.

Upon what occasion was it you went to Milan at that time from Pesaro?—For some business of her Royal Highness.

Did you go alone?—Alone.

How long were you at Milan at that time?—Two days.

Where did you go from Milan?—To Pesaro.

Do you know others of the family of Bergami?—There are other relations; there is a certain Louis Bergami, his brother.

Is that the only other relation of Bergami whom you know?—There are other persons, his cousins.

What are their names?—One is called Bernardo Bergami.

What the others?—The other, Francesco Bergami Valolta.

Are those the only relations of Bergami that you know?—There are other relations, but I do not know them all.

Do you know any others?—There are his sisters.

What are their names?—One I know is called Faustina Bergami.

You do not know the others?—The others I do not know.

Have you ever seen the Countess Oldi?—I have.

Is she any relation of Bergami?—She is his sister.

Where have you seen the Countess Oldi?—I have always seen her at the house of her Royal Highness.

Do you remember any other relations of Bergami?—I do not remember any others in the house of her Royal Highness.

You are then to be understood that all those whom you have mentioned are in the house of her Royal Highness?—They were once.

In what situation was the Countess Oldi?—Dame d'honneur.

In what situation was Faustina?—She kept the account of all the linen.

In what situation was Louis?—Equerry.

In what situation was Bernardo, the cousin?—He was prefect of the palace.

What was Francesco?—The accountant.

You having lived with her Royal Highness for four years, do you mean to say there were no others of the family of Bergami living with her Royal Highness during any part of that time?—I have seen no other.

Do you know Bergami's mother?—I do.

Did she ever live in her Royal Highness's house during the time you were there?—She came once to pass a few days at Caprili.

How long did she remain at Caprili?—About two months, more or less; I cannot well remember that thing.

Then by a few days you mean two months?

Mr. Brougham objected to this question. The witness had stated that Bergami's mother came to stay a few days at her Royal Highness's house; but it happened that she, like many other persons, came to stay a few days, but afterwards stayed longer than she first intended.

By desire of their lordships the two last questions and answers were read by the shorthand-writer, after which the Attorney-General proceeded.

Where did the mother live at other times, do you know?—She lived at Milan.

Whereabouts in Milan?—In the town, in a house.

In what part of the town?—I do not know.

When the mother was at the Villa Caprili, where did she dine?—Sometimes she dined with her Royal Highness, sometimes she dined by herself.

Where did Faustina dine?—Always in her own room.

Do you mean to swear that Faustina always dined in her own room?—I cannot swear that she always dined in her own room, but I saw that she did not dine with the others, and always dined by herself.

Where did Louis dine?—Louis dined with her Royal Highness; he did sometimes, and sometimes he did not.

Where did the Raggionato Francesco dine?—At our table.

Always?—Always.

Do you know Faustina's husband, Martini?—Martini, I do.

Where does he live?—At Milan.

Did not Martini at one time live at the Villa d'Este?—I do not know, because at that time I was not in the house, I was not in the service.

You have stated that Bergami accompanied her Royal Highness to St. Omers, did any other of Bergami's family accompany her Royal Highness to St. Omers?—No one else of the family.

Where did you leave the others of the family?—Some at M. some at Pesaro.

You have stated several journeys you took with her Royal Highn from Milan to Rome; who were upon that journey?—Coun Oldi, Baron Bergami, Mr. Hownam, the Chevalier Vassali, and Lo Bergami; Mademoiselle Brunette and Mademoiselle Demont, a the little Victorine.

Who travelled in the caratella from Milan to Rome?—Whi caratella?

You were understood to distinguish one of the three by the descri tion of a caratella?—Mr. William and Monsieur Vassali.

Who travelled in the bastardella?—Mademoiselle Demont, Made moiselle Brunette, and Mr. Hownam.

Only three?—Only three.

How did Louis Bergami travel?—Louis Bergami arrived at Rome one day before us; he set out before.

What carriage did Louis Bergami travel in?—In a caratella with two seats.

Was that another carriage belonging to her Royal Highness?—It was.

How many carriages accompanied her Royal Highness when she went from Ancona to Rome?—Her own and two more carriages.

How many carriages accompanied her when she went from Rome to Sinigaglia?—Three carriages including her own.

Who travelled from Rome to Sinigaglia in the bastardella?—Mademoiselle Demont, Mademoiselle Brunette, and Mr. Hownam.

Who travelled in the caratella?—Mr. William and Mr. Vassali.

Who in the carriage in which her Royal Highness travelled?—The Countess Oldi, her Royal Highness, the Baron, and Victorine.

How did Louis Bergami travel from Rome to Sinigaglia?—He set out before.

With whom, by himself?—In the caratella, by himself.

Those were the four carriages belonging to her Royal Highness?—They were.

Did they travel in that way the whole way from Rome to Sinigaglia?—Yes.

What other couriers had the Princess in her service at that time, besides yourself?—No other courier; after me there was Sacchini, I and Sacchini.

The Attorney-General wished to know of the interpreter, whether the witness by "after me" meant "besides me." The interpreter said the phrase had no such signification; it rather meant "under me." The witness being asked whether such was his meaning, said it was "under me." He and Sacchini were the two couriers.

Was it not very hot weather when they went from Rome to Sinigaglia?—Very hot.

Was that the reason of her travelling by night?—Her Royal Highness travelled by night on account of the heat.

In what order did those carriages go forward; her Royal Highness's first, the bastardella second, and the caratella the third?—Her Royal Highness went first, the bastardella was the second, and the caratella was the last.

Was Teodoro Majochi on that journey?—He was.
Was Racchi on that journey?—Ferdinando Racchi.
How did they travel?—On the box of the bastardella.
Were there two servants called Soliman and Polidore?—Yes.
Were they also on that journey?—They were.
(To the interpreter.) Does the word used for curtain in Italian apply as well to the blind that lifts up, as to the curtain that draws aside?—Yes.
What is the Italian word?—cortina and tendina; there is a little distinction as to their origin, but not as to their meaning.
(To the witness.) How did Soliman and Polidore go upon the journey?—Soliman on the box, and Polidore came a day after, for he remained at Rome.
On that journey from Rome to Sinigaglia, did not you go on, and order horses from stage to stage?—No, Sacchini set out from Rome two hours before.
Will you swear you did not go on and order the horses at each stage?—No, I remained with the carriages, and Sacchini set out from Rome in a carriage.
Upon your oath, did you not go on and order the horses at each stage?—I will swear, even to a hundred thousand times, that I was always with the carriages.
Who ordered the horses?—Sacchini set out before in the caratella.
Then Sacchini travelled in the Princess's caratella?—No, it was a carriage that he took from stage to stage.
How came you to swear, in your examination-in-chief, that he went in the caratella?—Every carriage is called a caratella in Italy, and I meant a caratella de posta; that is, a carriage he took from stage to stage.
Mr. Brougham.—He has said no such thing. He had merely mentioned a fact which proved that Sacchini was no great cavalier, and that he had been desirous of concealing that circumstance from the Baron, as it would have been injurious to Sacchini as a courier.
What was the reason of Sacchini travelling, on that occasion, in a caratella?—Because he was not fit to mount on horseback; for when he had run a post or two, he was all chafed.
Then he did travel part of the way on horseback?—As I have said before, coming from Milan, as far as Ancona only.
How long had you been at Rome before you set out from Rome to Sinigaglia?—Two months.
Do you mean to say, that this accident to Sacchini happened two months before you set out from Rome to Sinigaglia?—He set out from Milan to go to Rome, and he was chafed five or six stages afterwards; and at Parma requested me to get him a carriage, and to tell nothing to the Baron Bergami. He travelled, as I have told you, in a caratella de posta from Rome to Sinigaglia, and changing the carriage at every stage.
Before you set out from Rome to Sinigaglia, had you not been at Rome upwards of two months?—Two months at Rome the Princess was, June and July; the first of August we set out.
What was the reason of Sacchini's travelling from Rome to Sinigaglia in a carriage?—Because he was not good to mount on horseback, *and he soon* got tired, and he was chafed.

Did he go any part of that journey on horseback?—From Rome to Sinigaglia, and neither from Loretto to Rome.

How long had Sacchini been a courier in her Royal Highness's service during the time you were there?—Twelve or thirteen months at the most.

Was not Sacchini the courier on her Royal Highness's tour through Germany?—He was in her Royal Highness's service, but I was not; at that time.

Mr. Brougham.—Then, what occurred during that tour can only be what the witness understands to have taken place; and therefore cannot form the subject of an examination.

Where did you reside during the time you were at Rome?—At the Hotel of Europe, in the Piazza di Spagna, opposite the palace of the Spanish Ambassador.

Did you sleep there?—I did.

How long were you at that hotel?—Six days.

Where were you afterwards in that house?—Do you wish to ask as to me or her Royal Highness.

You?—I always was at the house of her Royal Highness.

Do you mean to say, you slept at the house of her Royal Highness every night that you were at Rome?—I do.

Did you ever sleep in any other place?—No.

Were you ever at Rome at any other time with her Royal Highness?—No.

As that was the only time, at that period did you sleep every night in her Royal Highness's house, or did you not sleep elsewhere for a considerable time?—I have always slept in the house where her Royal Highness lodged.

Were you not, at that time when you were with her Royal Highness, confined in prison?—I was not.

Nor at any other time when you were there with her Royal Highness?—When I was with her Royal Highness, never.

Was it before that period then that you were in prison?

Mr. Brougham objected to this question. His learned friend assumed that the witness had been in prison.

Were you ever in prison at Rome?—How, in what way in prison?

Did you ever sleep in prison; were you ever confined in prison?—Once I was arrested at a watchhouse at Piazza Collonna for five days.

When was that?—It was when I went to fetch the money from the banker, the Duke of Torlonia; when I was at Storta, the postillions would not give me the horses, and the postillions began to ill-treat me, and I began to retaliate, to beat them; the postillions came seven against me with their stable forks; I drew out my pistol and fired, and at that time arrived the courier of Monsieur Calcagnini, and he held my arm at the time that I had pulled the trigger to kill one of the postillions, and he in this way got the fire himself; then the governor, Monsieur Calcagnini, saw that I was right, kept me five days under arrest, and then let me go.

Was not the postillion killed?—I did not kill the postillion.

Was not one of the postillions killed upon that occasion?—No postillion was killed upon that occasion.

Was the courier *injured*?—He was wounded; I made him a hole as large as that here, *(in the belly.)*

Did he not die in consequence of that wound?—He was forty days ill; he was my friend; it was through an accident.

When you were at Rome you say you visited Ruffinelli, how far is Ruffinelli from Rome?—There are twelve miles from Rome to Frascati, and there is half a mile to go to Ruffinelli from Frascati.

Do you mean twelve Roman miles, or what other miles?—Roman miles.

Re-examined by *Mr. Brougham.*—Is Storta the first stage from Rome?—Coming out from Rome to go towards France it is the first stage.

Do you mean that it was the first stage in going from Rome back to her Royal Highness?—To come to Pesaro.

Were you going then from Rome to Pesaro to her Royal Highness?—I was.

Had you in your charge at that time a large sum of money for her Royal Highness?—Fifteen thousand dollars.

You say this courier whom you had the misfortune to wound by accident was a friend of yours?—He was, he is still my friend; and he is at present at Rome.

It was not at him you were firing at the time?—No, it was to kill one of the postillions.

Do you mean one of the seven postillions who were attacking you with pitchforks?—Yes; and I might have killed perhaps three or four of them, for my pistol had two bullets in it.

Were they the pistols which you had to defend yourself and your charge upon the journey?—To defend myself upon the road from Rome from the highwaymen, for there are always some highwaymen there.

Examined by the Lords.

Lord Erskine.—During the whole time you were in her Royal Highness's service, in the manner you have described to the House, did you ever observe any part of her Royal Highness's behaviour immodest or indecent, either regarding Bergami or any other man?—Never, but always with much respect when he spoke to her Royal Highness.

Lord Ellenborough.—Were you travelling alone when this accident at Storta happened?—I was travelling together with the cousin of Bergami.

Do you know why you were released from prison so soon?—Because the secretary of state, the governor of Rome, saw that I was right; and Monsieur Calcagnini, in whose service the courier was, saw that it was a misfortune, an accident, and he endeavoured to get my liberty.

Did the Princess of Wales write in your favour?

Mr. Denman having objected to this question as irregular, it was withdrawn.

The Earl of Lauderdale.—Do you know the Countess Oldi's husband?—I do not.

In what month did the Princess go from Rome to Sinigaglia?—In the month of August.

Lord Prudhoe.—At what hour of the day did you arrive at Sinigaglia?—Eleven in the morning.

The witness was directed to withdraw.

Engraved by R. Page

LIEUTENANT FLINN.

Published by J. Robins & Co. By Lane London Nov. 18th 1820

LIEUTENANT JOHN FLINN of the Royal Navy was the next called in, and having been sworn, was examined by *Mr. Denman.*

Are you a lieutenant of the Royal Navy of England?—I am.

Are you now settled in Sicily?—I am.

Did you see her Royal Highness the Princess of Wales at Messina in the month of November in the year 1815?—I did.

Did you take any command on board a vessel at that time?—I did.

What was that vessel?—A gun-boat.

Did her Royal Highness make any application to you, with respect to any voyage?—She did.

What was that?—To proceed with her on the voyage to Constantinople and other places.

Was a polacca hired for that purpose?—Yes.

Who had the command of that polacca?—Her Royal Highness gave me the command of her.

Did you continue in the command of her during the whole time that her Royal Highness was on board?—Most assuredly.

Who fitted up the cabins in the polacca?—I did.

Did you fit them up under the direction of her Royal Highness, or according to your own discretion?—According to the orders of her Royal Highness.

And at her expense?—Yes.

Was there any surgeon on board during the voyage?—When we got to Tunis.

Do you know whether he is now living?—I believe not, I have heard he is not.

When he was taken on board at Tunis, did it become necessary to make any alterations in the sleeping place of any other person on board?—It did.

What was that?—Mr. Bergami's birth was changed into the dining-room.

From what previous situation?—From the after cabin on the right hand side of the ship when looking forward.

Do you know the bed-rooms that were occupied by her Royal Highness, and also by Bergami, during the whole of the voyage?—I do; the bed-room of her Royal Highness was on the starboard side.

In any situation in which the beds of those two individuals were at any time placed, was it possible for them, from those beds, to see one another?—I say no.

Was it your duty to attend to her Royal Highness, and to see what the arrangement of her apartments was?—I have sometimes been called for by her Royal Highness, to know how the weather was.

From what place has her Royal Highness called to you?—From her cabin.

Has she called to you from any other place in the night?—Yes.

When?—When sleeping under the tent.

Under the tent upon the deck?—Yes.

What was Gargiulo's situation on board this vessel?—He was the captain of the ship.

Was he the acting captain, or the master of the vessel, and you the acting captain?—I was considered the captain of the vessel, by order of her Royal Highness, and all the necessary orders were given by me to the captain *of the ship.*

Did Gargiulo's situation call on him to attend about the rooms of her Royal Highness, or about her person?—No, most assuredly not.

Supposing her Royal Highness was to go down stairs for necessary purposes, was that man likely to have any knowledge of such a fact?

The Solicitor-General objected to the question.

You understand the sort of occasion to which allusion is made, was there any thing in the duty of Gargiulo, on board the vessel, that should call upon him to know what her Royal Highness was doing upon that occasion?

The Solicitor-General contended that the proper question was, "what was Gargiulo's duty?"

Mr. Denman thought he had a right to put the question in the form which he had proposed.

The Lord-Chancellor was of opinion that the regular course would be to ask what was Gargiulo's duty on board the ship.

What was the duty of Gargiulo on board the ship?—To attend to the duty of the ship.

His duty was to attend to the men?—Yes.

Did that duty call him to be in the part of the ship where her Royal Highness was?—Not at all times; a man could command the ship without being in the apartments of her Royal Highness.

Was it his duty to attend upon her Royal Highness, without your having given him orders so to do?—No.

Was he in the habit of coming into her Royal Highness's room of his own accord?—He might of his own accord; he could not have gone there without receiving some order from me.

Was that his habit or his duty, without orders from you?—It was his duty.

Do you mean, to take orders from you?—Yes.

You have mentioned the tent that was sometimes raised upon the deck, how near was the steersman to that tent?—About three or four feet.

During the night and day?—Yes.

Did your duty, in the course of the night, call you sometimes to that place?—On our return from Jaffa I slept on deck.

The question refers to the place where the steersman was?—Most assuredly.

How near was the place where you slept to the tent?—Over the helm; I should think about five feet; I should say less than five feet.

From the place that the steersman occupied was it easy to hear what passed within the tent?—Speaking generally, I conceive it would be.

Describe what you mean by speaking generally?—If the conversation was such as generally takes place between two persons, it might have been heard where I slept and where the steersman was.

You say it might have been heard where you slept; did you, in fact, hear it?—No, I did not.

Have you heard conversation from that place passing under the tent?—No.

Was it near enough to have heard things that passed in general within that tent?—Yes.

Did the tent cover the whole of the deck, or was there a passage *left?—There was a passage on one side at night.*

Were you in the habit of passing along that passage in the night?—Yes.

And others of the crew?—Certainly.

Do you recollect the light being sometimes put from under that tent to be taken away at night?—It was taken away for the preservation of the ship and all on board her.

How so?—We had received information at Athens and at Milo of a great many pirates having been about the Archipelago, and it was then consistent that no light should be seen upon deck—not to give such vessels an opportunity of seeing us by night.

Do you know whether there were any pirate vessels at any time; had you seen any?—Yes.

Was the danger of the light being on deck represented in consequence of that to her Royal Highness?—It was.

Was the light removed from the tent, after that representation was made?—Yes.

Was there any communication between the interior of the tent and the cabin below?—Yes.

What communication was it?—A ladder that went down to the dining-room.

How was that communication kept at night, open or shut?—It was kept open; the tent covered the passage, but the opening itself was always clear.

Do you remember a tub in which her Royal Highness occasionally bathed?—I do remember there was a tub.

Do you know whether that tub could go into the cabin where her Royal Highness slept?—No.

Do you mean that you do not know, or that it was too large to be placed in the cabin?—It was too large to be placed in the cabin.

In the course of the night has her Royal Highness ever spoken to you from the tent?—When having occasion to manœuvre the ship during the night, I have had occasion to disturb her Royal Highness from her repose, she has then called to me.

When you answered that call, did you open that tent?—Sometimes, when I could not distinctly hear what her Royal Highness had to say, I was obliged to open it.

Do you know where Bergami slept on board your vessel?—On the return from Jaffa, I do not know where he slept.

Where did he sleep on the other voyage?—On going out, he slept in the dining-room.

Do you remember the position of her Royal Highness's cabin with respect to that of the Countess Oldi?—Yes.

How was it?—The cabin was divided into two divisions, that of her Royal Highness was much larger than that of the Countess Oldi.

Was there any communication between them?—There was a door and two skylights, two openings on the deck.

Was there any gun upon the deck?—Yes, there was.

Did you see her Royal Highness sitting upon that gun with any person?—No.

Did you ever see her sitting in the lap of any person on board that vessel?—No.

Did you ever see her with her arms round the neck of any person?—No.

Or kissing any person, except perhaps the child Victorine?—No.

During the *whole time that* you had the management of this vessel,

and that her Royal Highness was on board, did you see the slightest impropriety or indecency in her behaviour towards Bergami or towards any other person?—No.

Do you remember Bergami going on land at Terracina?—Yes.

Did you see him take leave of her Royal Highness?—I did.

Describe what was done upon that occasion by him?—Kissing her Royal Highness's hand on going away from the ship, which was occasionally done by all persons on taking leave.

How long have you been in the navy?—About sixteen years.

You wear some orders?—I do.

What are they?—The Order of Merit and Fidelity of the King of Naples.

On what occasion did you receive those orders?—On the occasion of taking several privateers when serving in the Neapolitan navy at Messina.

Have you received the royal permission to wear those orders?—One I have.

Which is that?—The third order.

By royal permission, I meant the permission of your own king?—Yes.

Cross-examined by the *Solicitor-General*.—How long were you on the voyage from Tunis to Jaffa, as nearly as you can recollect?—I do not know the exact date;—if you will allow me to look at a memoir I have made—

The question does not call for the precise time, but about what time?—I should conceive from two to three months.

How long, as nearly as you can recollect, were you upon the voyage from Jaffa to Syracuse?—Nearly a month.

Do you mean to say, that you were not more than a month?—We might have been more, I cannot state exactly to a day without appealing to memoirs.

Will you take upon yourself to say, that you were not two months?

The witness produced a paper, and was asked,

When were those made?—They were copied from my own originals.

When?—Since I have been on my voyage.

Where are the originals?—In Sicily.

Why did you not bring the originals?—I did not think they would be wanted.

Why did you make the copies?—Because I thought it consistent, I thought I might want them hereafter; I did not consider it necessary to bring the originals with me.

You made the copies because you thought they might be wanted, but you did not think the originals would be wanted, is that so?—Yes.

For what purpose were the copies to be wanted?—To remember in case I should be asked any particular circumstance, where I had been, by my friends.

Why would not the originals communicate that?—Because it is private affairs.

Do you mean to swear those papers you have in your hand were copies made before you came to this country the last time?—Yes.

In Sicily?—On my voyage on board the ship.

That the copies which you now hold in your hand, were made on your voyage on board the ship?—On board the ship; I went from Messina to Syracuse, I heard that persons were called to England, and *I expected to be* called myself, but I was not called.

You mean that the copies were made at that time?—On my voyage.

Can you tell now, without looking at those copies made by you, nearly how long you were on the voyage from Jaffa to Syracuse?—We might have been more than a month, I cannot tell particularly without looking at the paper.

According to the best of your recollection will you take upon yourself to say, you were not two months?—From one to two months, I should conceive we were, I cannot swear exactly.

Nearer two months than one month?—I should think nearer two, when I reflect on the thing.

Will you take upon you to swear that you were not more than two months?—No, I cannot take upon me to swear that.

Lord Erskine objected to the mode of examination pursued by the learned counsel. If the witness were not allowed to refresh his recollection by his memoranda, it was unfair to tax his memory in the way attempted. All would probably be clear by reference to the paper in the hand of the witness.

The Lord-Chancellor asked if the witness had offered to look at the paper.

The Solicitor-General observed that the memorandum offered by the witness was merely a copy of some previous entry in the log-book, and made during a subsequent voyage. He submitted, therefore, that it could not be produced.

Lord Erskine added that, if the witness were not allowed to refresh his memory, the counsel was bound to take it with its defects, but not to tax it as he had done.

The Lord-Chancellor seemed to be of opinion that if the memorandum were not produced, the counsel had a right to tax the memory of the witness.

The Earl of Liverpool explained, that as the memorandum had not been made at the time of the transaction, in his view it could not be employed by the witness for the purpose of refreshing his memory.

The Marquis of Lansdowne remarked, that the question was not whether the memorandum should be received in evidence, but whether a copy of the original, which original he understood to have been made at the time, might be used by the witness to refresh his memory, as to dates.

The Earl of Harrowby did not think that the witness had yet stated that even the original was made at the time of the transactions to which it referred.

The Lord-Chancellor read the following sentence from *Phillipps's Law of Evidence*:—"To assist his memory,

a witness may use a written entry in a book, or a memorandum, or a copy of a memorandum, such entry and memorandum having been made at the time when the fact occurred, or immediately afterwards." Therefore, if the witness swore that the original memorandum was made at the time, and that what he employed was an accurate copy of the original, it seemed to him that it might be used to refresh his memory.

Earl Grey suggested that the witness should again be called in, to be questioned as to the time when he made both the original memorandum and the copy he had brought with him.

The witness was again placed at the bar, and interrogated by the *Lord-Chancellor.*

Where did you make those original papers that you spoke of?—The papers were made on board the vessel which I commanded.

Where, on what voyage?—Going from Messina to Catania.

Where did you make what you call the copies of those originals?—It was on board the ship.

On the same voyage?—Yes.

On your way from Messina to Catania?—I went round the island in a vessel of my own.

Did you make the original minutes when you were on board the polacca with the Princess of Wales?—The original, I did.

Did you make the copies when you were on board the polacca with the Princess of Wales?—The originals were made on board the polacca.

Where did you make the copies?—When I went round the island of Sicily in my own vessel.

Had you the originals with you at the time?—I had, on board the vessel.

Are those copies made from those originals?—Yes; there are very few lines of them; I did not copy the whole of them.

Are they faithful extracts of so much as they purport to be extracts of?—No; perhaps I do not understand the question.

You recollect your original papers?—Yes.

Are those you call copies, copies of the whole of those originals?—They are not copies of the whole transactions on board the polacca.

Are they copies of any part?—Some parts, such as the dates when we sailed from different places, that is all.

As far as you have made copies, can you say, upon your oath, that they are accurate copies of parts of the originals?—Yes.

The Solicitor-General.—Have you looked at that memorandum since you have been out of this house?—No, I have not.

Look at the memorandum, do not read it aloud, and state how long you were on the voyage from Jaffa to Syracuse?—

The witness referred to his memorandum, and said,

We sailed from Jaffa on the 18th of July, and arrived at Syracuse on the 20th of August.

The paper was shown by the witness to the Solicitor-*General,* at his desire, and he was then asked,

During the voyage from Tunis to Jaffa, where did Bergami sleep?—From Tunis to Jaffa, in the dining-room.

Every night?—To the best of my recollection he did.

How do you know that?—Because I had frequent occasion to go to her Royal Highness in the morning to pay my respects, and I saw him in bed.

Were those the only occasions on which you saw him in bed in the dining-room?—Those are the only occasions.

Did her Royal Highness sleep below during the whole of the voyage from Tunis to Jaffa?—I believe she did.

When you went to pay your respects to her Royal Highness, where was her Royal Highness at the time?—In her own room.

In her sleeping cabin?—Yes.

Abed?—On the sofa.

Dressed or not?—Dressed.

And Bergami, on those occasions, in bed in the dining-room?—He was in bed.

How many times may you have seen him on the average in a week?—I never particularized to haul back the screen, but sometimes when I have gone in, he has said "Good morning" as I passed.

What kind of a bed was it, or bedstead?—I believe it was an iron bedstead, but I cannot positively recollect what it was.

Fixed?—No, it was not a fixture, but it was lashed to the side of the vessel.

Do you mean to swear, that from that bed, the bed of her Royal Highness, when the door was open, might not be seen?—I should think not.

Then now it is only you should think not; did you ever stand in such a position as to see to decide that?—No, I did not.

Was it your duty to attend upon her Royal Highness?—No, it was not; but when called for I frequently went there.

No other business took you into the dining-cabin in night?—No.

Though you had the command of the ship you did not go into the cabin at night?—I did not, without being sent for.

At any time, either upon the outward or homeward voyage?—On the homeward voyage I have.

Often?—Not very often; such as going to dinner.

At night?—No.

Never?—Never, without being called for.

Who was to call you at night?—The crew on deck, when I was not on deck myself.

Who was to call you into the dining apartment at night?—Some of the servants of the house—of the ship.

Being so called, you have gone at different times?—I have gone when I have been called for, but I never went of my own accord.

Has that happened frequently?—Not very frequently.

Has that happened several times?—I cannot specify the number of times, but I apprehend more than once.

Or twice or ten times?—I might have been as many times as that, but I cannot possibly recollect the number of times I have been sent for.

Under this tent, on the deck, there was a bed, was there also a sofa?—There was a sofa and a bed.

Whose bed?—I believe that it was Mr. Austin's bed.

Who slept *in that bed?*—*I do not* know.

Do you mean to swear, that you do not know that her Royal Highness slept in that bed?—Her Royal Highness slept on a sofa, not on a bed.

Near that bed?—Not very near.

How far off?—As far as I am from that seat there.

Three or four yards?—I should say three yards.

Do you mean to swear there was an interval of any thing like three yards between the bed and the sofa?—Between the extremities of both, there was a great deal more.

Was there more than a yard between the nearest point of both?—Yes, most assuredly there was.

How much?—There must have been more than two yards.

Where did her Royal Highness sleep, on the sofa?—Yes.

How do you know that?—Because I had occasion to see her one night, when I went in there.

Is that the only reason you have to know that?—That is the only reason; I can testify having seen her Royal Highness on that bed, and I conceive she always slept there.

Who slept on the bed?—I do not know.

For what purpose was it placed there?—It was placed there for persons to sit there during the day.

Do you mean to swear, that it was placed there for persons to sit on during the day?—That was the occasion I saw it used for during the day-time.

You mean to swear, you believe it was placed there for that purpose?—I can state no other purpose, I do not know that any person slept in it, I never saw any person in bed there.

Did you ever see Bergami in bed there?—I have never seen him in bed; I have seen him sit on it in the day-time.

Have you never seen him lie upon upon it in the day-time?—No.

Do you mean to swear you have never seen him lie upon it in the day-time?—I do.

Had you never the curiosity to inquire where Bergami slept the whole of the voyage from Jaffa to Syracuse?—No, I had other duties to attend to, navigating the ship to carry her Royal Highness about to the different places to which she went, and I did not attend to that.

Have you any doubt that during that voyage, and the whole of it, Bergami slept upon that bed under the tent?—I cannot say where he slept, I never went to look after Mr. Bergami; when he was wanted, or where he slept, it is impossible for me to say, I can only repeat that I never saw him in bed.

Have you any doubt that he slept on that bed every night on the voyage from Jaffa to Syracuse?—I cannot say.

Have you any doubt upon the subject?—I must certainly doubt whether he did sleep there every night, or whether he did sleep there at all I cannot say, for I never saw him there, nor do I know where he slept.

Do you mean to say you entertain doubts whether he did sleep there, and believe that he did not sleep there?—When I never saw him there, I have every reason to doubt that he did not sleep there.

Do you mean by that to say that you believe he did not sleep there?—I believe he did not sleep there.

Where did he sleep?—I do not know; I never went to look where he slept.

Did you ever see him sleep in the cabin in the voyage from Jaffa to

Syracuse?—I never went into the cabin in the day-time, to see whether he was there or not.

Did you ever see him, during any part of that voyage, sleeping in the cabin?—I do not know; I never went into the cabin to see whether he slept there or not.

Did you ever, either by night or in the morning, see him, during any part of that voyage, sleeping in the cabin in his former place?—I do not recollect having seen him there.

Do you mean now to repeat, that you believe he did not sleep under the tent?—I must again repeat that I do not know where he slept.

Not knowing where he did sleep, you mean to have it believed that you do not believe he slept under the tent?—I believe he did not sleep under the tent.

What is your reason for believing that he did not sleep under the tent?—Because when I went to see her Royal Highness one night, I did not see any one there.

Was it light or dark?—It was dark.

Of what country are you a native?—I was born an Englishman, part of an Irishman.

It being dark, and not seeing him when it was dark, is that the only reason for your belief that he did not sleep under the tent?—The light of the binnacle was quite sufficient to give me an opportunity of seeing whether he was there or not; it was dark at night, but there was the light from the binnacle that reflected into the place when I opened it.

Attend to the oath you have taken; upon the night when her Royal Highness called you, and when you say there was a light from the binnacle, will you take upon yourself to swear that Bergami was not on that bed?—I do swear to it.

Was that the only occasion that you saw that bed when Bergami was not there?—I have gone there frequently, and seen the bed in the same position, and I never saw him there.

Have you gone there frequently?—I have gone there when called for.

And you never saw him there?—I never did.

Do you mean to swear, that if he had been there, you must have seen him?—Yes, if he had been on the bed, I must have seen him.

Do you remember the night of a storm off Candia?—Yes, I do.

Did her Royal Highness go below?—She did.

Where did she sleep?—She slept on the deck. I did not follow her Royal Highness to see where she slept; but I believe she slept in the cabin belonging to Mr. Hownam.

Do you not know that she slept on the deck below, by the side of that cabin of Mr. Hownam?—She might have slept there at first, and afterwards retired to the cabin of Mr. Hownam; but the occupation of the ship required me to stop on deck.

Did you not see her Royal Highness below on the deck?—I believe at day-light in the morning I saw her Royal Highness in Mr. Hownam's cabin.

Did you not go below during the night, and see her below during the night?—I do not recollect to have done it; it does not strike me that I did: it blew very hard indeed, and required me on deck.

Do you know where Bergami slept on that night?—I do not.

Where did you see Bergami in the morning?—The first I saw was on his coming on deck; I saw him coming up the ladder.

You mean to swear *you never* saw him during the night lying on the *deck below?—No, I did not.*

Had you the whole command of the vessel?—Speaking of having the command, I had those orders which her Royal Highness chose to give me at different times, and under those I acted; the ship was hired by her Royal Highness.

During the whole of that month you mean to swear you never saw Bergami in bed any where?—I never saw him in bed any where; I have seen him sitting on that bed on the deck, but never saw him lying down.

At the helm you could not hear a conversation that passed within, unless it was in a certain tone of voice?—Speaking as you are now speaking, I might have heard it; I could have heard it.

When her Royal Highness called, you did not hear, and were obliged to lift up the tent?—Yes, when blowing hard on board the ship, the working of every material on board prevents persons hearing, and I could not distinctly hear what her Royal Highness said, but I naturally concluded, from having been called on former occasions, that it was to inquire respecting the weather.

Earl Grey said he was sorry to interrupt the cross-examination, but it was now considerably past the hour of adjournment, and it did not seem to be drawing to a close. (Cries of adjourn, adjourn.)

The Solicitor-General said that it would be extremely difficult for him to say how long he might yet require, and he should not like to be hurried.

The House adjourned at a quarter past 4.

SEVENTH DAY.—October 10.

The Lord-Chancellor took his seat about 10 o'clock.

Earl Grosvenor wished, before the counsel came to the bar, to call their lordships' attention to a circumstance on which it appeared to him important that they should come to a speedy decision. Their lordships would recollect that a discussion had taken place on the possibility of its being necessary to secure the means of prosecution for perjury, if unfortunately any case should occur in the proceedings respecting the Queen which called for such prosecution. There was a report on the table on the subject, and it was understood by their lordships that nothing should take place on their part to prevent prosecutions for perjury. He wished, however, to address himself to the noble and learned lord on the woolsack, in order to ascertain whether it was still his opinion that there existed the power of prosecuting for perjury witnesses who might be examined before their lordships. He understood that there were very considerable doubts respecting the decision to which he had alluded, which it was fit should be removed without delay; for nothing could be more important than that the *question as to* the power of prosecuting for any perjury

which might be committed in the present proceedings should be settled. He thought the most proper mode of doing this would be, to pass a short act of Parliament declaratory of that power.

The Lord-Chancellor declined giving an answer to the question. He did so, because in this stage of the proceedings it was the most extraordinary question he had ever heard. When the subject was formerly before the House, he took the liberty of saying that if counsel undertook to prosecute a witness for perjury, that then would be the time to consider of the means of effecting that object. But he now went further, and would tell the noble lord, that it was not becoming to anticipate the prosecuting for perjury in the present stage, and as a matter of probability, with reference to witnesses who had been examined. Upon that probability he could come to no opinion until the proceedings were brought to a conclusion. He would ask the noble lord, whether it was not, in a moral point of view, substantially punishing for perjury to hold out such a probability with respect to past evidence, which, for any thing he knew, might be confirmed by witnesses yet to be called?

Earl Grosvenor had expressed his opinion that an occasion for prosecution might arise. The noble and learned lord had charged him with improperly anticipating the prosecution of witnesses for perjury: but their lordships would recollect that the subject had already been under consideration. The case had been stated, and the noble and learned lord was asked whether in his opinion the witnesses could, or could not, be prosecuted for perjury. In consequence of what then passed, it was understood to be decided, in the first instance, that no impediment would be presented by the House to any prosecution. What he proposed, then, was only to give effect to their lordships' intention. The noble and learned lord had, however, talked as if the present were the first time the question had been agitated: but the noble and learned lord had himself given his opinion on the subject of prosecuting. What he now proposed was merely that a bill of the kind he had described should pass, in addition to the declaration that the House would not interpose its authority against any prosecution for perjury arising out of the proceedings respecting her Majesty which might be instituted.

The Lord-Chancellor observed, that such a measure

as that which the noble lord proposed was a very different thing, taken prospectively with reference to witnesses who were to be called, and as applying to particular individuals after they had been examined.

The Earl of Liverpool was of opinion that, if the measure suggested by the noble lord could be entertained at all, it ought to have been brought forward previously to the examination of the witnesses.

Lord Melville stated, that circumstances had come to his knowledge respecting the evidence of one of the witnesses examined yesterday (William Carrington), who had stated himself to have been a midshipman in the royal navy. It would be desirable, he apprehended, to put some further questions to that witness; but when that was done, he thought that the counsel on both sides should be present at the bar, that they might have the opportunity of hearing and commenting on what might pass. In the mean time, he wished that the counsel on both sides should be made aware of the intention of calling the witness.

Earl Grey thought that it would be as well if the noble lord postponed asking the questions he wished to put to the witness until after the case was gone through.

The Earl of Liverpool observed, that the period for calling the witness was purely a consideration of convenience. The counsel for the bill might be asked whether they meant to call any evidence to rebut the statements of the witnesses examined for the defence. If they did, the evidence applying to this particular witness might be called along with the rest; or, if their lordships thought it preferable, the witness himself might be called forthwith.

The Earl of Lauderdale had no knowledge of the nature of the questions which were intended to be put to the witness; but it was sufficient for him that there was the assurance of a noble lord that there were questions which he thought it important to put to the witness. Upon that assurance their lordships ought to act. They had allowed counsel to re-examine the witnesses upon a statement that they had important questions to put, and surely they would extend that confidence to a member of their own court which they had given to counsel. He thought, therefore, that it must remain with the noble lord to propose calling the witness forthwith, or at *any future time*.

The Earl of Donoughmore, without knowing the
ture of the questions which were to be asked, thou
there could be no doubt on the question. This was
a subject proposed by counsel on one side or the ot
It was proposed by the noble lord, for the informa
of the court. If the information was very import
he should say that the sooner the court was put in
session of it the better.

Lord Melville could only say, that he thought it hig
expedient that Carrington should be examined as
as possible. He would therefore move that he be ca
to the bar to-morrow.

Several peers cried "To-day! to-day!" and the
ness was ordered to attend this day.

Counsel were then called in.

Lieutenant John Flinn, of the Royal Navy, was a
called in, and further cross-examined by the *Solic
General.*

At what time did you arrive at Athens?—(The witness refer
his paper.) On the 8th of May I believe.

Did you touch either at Athens or at Milo, on the home
voyage?—No.

You mentioned yesterday, memorandums, or a copy of mem
dums, which you made on the coast of Sicily?—Yes.

When was that made, how long ago?—About three months
between three and four months ago.

How long previously to that time was it, that you had been in
land?—I had been in England in 1817.

You had not been in England from 1817 down to that perio
No.

Was the memorandum made on shore, or on board the vessel?
board the vessel.

Had you been on shore a short time before that?—In Sicily;
ed from Messina to La Carta first, and from thence to Catania,
from Catania to Messina.

Were you on board an Italian vessel?—I do not remember t
was on board an Italian vessel.

At the time you are speaking of, when that memorandum
made?—No, I was not.

Of what country?—An English vessel.

What was the name of that vessel?—The Lion.

Will you allow me to look at the memorandum you hold in
hand?—Yes. (The paper was handed to the Solicitor-General.)

You have stated that you had the command of this polacca,
was it that navigated the vessel?—I did.

Who was it that gave orders to the sailors?—Generally it wa
captain, but those orders came from me.

Did you do more than merely direct the captain as to the pla
was to go to?—I did not particularly direct him to go to any p
I only gave him orders to execute those duties belonging to the

Did he not execute those duties as the captain of a vessel ord
does, *by giving directions to his crew*?—I conceive he did.

Then in navigating the vessel, had he not the whole care and management of the ship?—He had not the whole management of the ship, because the management was given to my charge by her Royal Highness.

Do you mean to say you gave orders to the seamen about the navigation of the vessel?—The management of the ship and the manœuvering of the ship were different.

Do you mean to say you gave any orders to the crew for the navigation of the vessel?

Mr. Denman interposed, and, after the witness had withdrawn, observed, that the Solicitor-General had no right to assume that the witness had said he gave orders. When a witness was asked whether he meant to say so and so, it was intended to be insinuated that he had said something like it, whereas the witness had said that the captain generally gave the orders.

Mr. Gurney, the shorthand-writer, read over the notes of the evidence; and after some discussion took place between the counsel, and a few observations from Lord Rosslyn, which we did not hear,

The Lord-Chancellor said, that it struck him the witness put a different construction on the terms navigating, management, and manœuvring the ship; and he conceived that the questions the witness had been asked had been put for the purpose of ascertaining what he meant by the words "navigating the ship."

The witness was then called in, and the cross-examination resumed.

The Solicitor-General.—What do you mean by saying that you navigated the ship?—By navigating the ship, such as directing the courses to steer by, and giving orders to the crew occasionally.

Then you did occasionally give orders to the crew as to navigating the vessel?—The navigating of the vessel includes manœuvering the ship and sails, those things as well as the navigation also.

Did you give directions as to the manœuvering the ship?—Sometimes I did, sometimes I did not.

Was not that generally done by Gargiulo the captain?—Sometimes he was not on deck, and I had occasion to do it myself.

Then was it only when he was not upon deck, and you had occasion to do it on that account, that you gave those directions?—Sometimes I have done it also when he has been upon deck.

Was it not generally done by Gargiulo?—As to the working of the ship, I think he generally did it more than I did myself.

Do you usually write in Italian or in English?—In Italian sometimes.

Do you usually write in Italian or in English?—In both.

You must perceive that is not an answer to the questions; do you usually write in the one or the other language?—I write in English generally.

Was the account which you kept of the proceedings of the vessel in *Italian or in English*?—In Italian.

Was that account written by yourself?—The account was written by the clerk.

The question refers to that account referred to by you yesterday, and from which you made your extracts?—It was written by the clerk.

Was that clerk an Italian or an Englishman?—I do not know what he was.

Was he your servant?—No.

How long were you on board the vessel with him?—In the voyage we were several months on board.

With that clerk?—Yes, there was a clerk; the copy you allude to now, the journal, was kept by myself in Italian.

The question refers to the journal from which you took that memorandum, whether that was kept in English or in Italian?—It was kept in Italian, the log-book.

Was it from the log-book you took those memorandums, those copies?—Yes.

By whom was the log-book kept?—By myself, it was a private memorandum of myself.

Do you mean that the log-book was a private memorandum of yourself?—Yes, it was a private memorandum of myself; it was not exactly the log of the ship, it was a private memorandum of myself; I considered the log for my own private purpose.

Being for your own private purpose, was it kept by yourself or by a clerk?—It was kept and directed by myself, some writings of my own, and some writings of a clerk in it.

Was that the clerk to whom you alluded just now?—Yes.

Was he on board the polacca?—Yes, he was.

The whole voyage?—Yes, the whole voyage.

You were asked whether he was an Italian or an Englishman?—An Italian.

Did you not state just now that you did not know what countryman he was?—I believed him to be an Italian or a Sicilian; I did not know what he was; he was on board the ship.

Did you not, in answer to the question put to you, whether he was an Englishman or an Italian, tell me you did not know what countryman he was?

Mr. Denman.—That question was not put. (Order! order!)

The Solicitor-General.—It was.

Mr. Denman.—If I am called to order by the House, I must address myself to your lordships.

Mr. Gurney then read the following question and answer to the witness:—

"Was that clerk an Italian, or an Englishman.—I do not know what he was."

Did you not tell me just now, when I asked you whether he was an Italian or an Englishman, that you did not know what he was?—I do not know what he was, but I believe he was an Italian or a Sicilian.

You say he wrote only a part, was the part which you wrote written in Italian or in English?—That part which I wrote was in English.

Did you not tell me just now that the log, or whatever it was, was written in Italian?—In Italian.

Did you not tell me that the log was written in Italian?—Yes.

Now you mean to say it was written partly in Italian and partly in English?—Part of both, to my recollection.

The witness here became overpowered by the heat of the house, and fainted. He was immediately removed from the bar. While he was out several peers complained of the oppressive state of the air in the House, and desired that all the windows should be thrown open,

The Lord-Chancellor immediately ordered the windows to be thrown open, and said, that he had heard with much surprise yesterday, that some of the officers of the House had said it was by his wish the windows were kept shut: now he had never expressed himself in any such way, but was most anxious to have the ventilation of the House kept up as much as possible.

The witness being recovered by the fresh air, when removed out of the House, was brought back. Some peers expressed a wish that he should be accommodated with a chair, but Mr. Denman said he did not require it, being then perfectly recovered.

Mr. Denman said, that before the cross-examination was resumed, the witness begged that the previous evidence might be read over to him.

Mr. Gurney accordingly read from where the witness said he wrote both in Italian and English.

The witness said,

The clerk I referred to was a sailor whose name was Pasquali; he was a servant of mine.

Having told us in a former part of your examination, that Pasquali was not a servant of yours, and having now told us he was a servant of of yours, which of these two stories do you mean to adhere to?—I mean to adhere that he acted as both.

Do you mean to say that he acted as both, that he was your servant, and that he was not your servant?—His being a servant was only for the purpose of taking my cot up and down, and making my bed, and those private affairs, such as writing for me, were done for me, such as the duty of a servant; he was not kept as a clerk, but he was kept more as a sailor on board the ship.

Then he acted as your servant?—He acted as a sailor and as a servant on board the ship; he was one of the crew.

You having kept a part of this log yourself, and Pasquali having kept the remainder, which of the two kept the larger proportion?—It is impossible I can determine at this moment; I have not the thing before my eyes, nor can I say which kept the most, but I should think I kept the most of it myself; I may be mistaken as to such a circumstance; I have not the thing before me, and I cannot say.

Then the most of it, if kept by you, was kept in English?—There was some in English and some in Italian, written by myself.

Then if you stated just now, that the part which was kept by you was kept in English, you told us that which was untrue?

Mr. Denman said he could not suffer his learned

friend to cast such an aspersion on the witness, it was unjust.

The Solicitor-General replied, that, as the question was objected to, he should not press it in that form; he would, therefore, withdraw the former question, and ask,

Did you not tell us just now, that the part kept by you was kept in English?—If I told you so, it was at a moment when I felt myself so situate that I did not know what I said.

Then the part that was kept by you, do you mean now to say was kept sometimes in English, and sometimes in Italian?—Yes.

Was the greater proportion, according to the best of your recollection in English, or in Italian?—I should involve myself very much to say which it was, I cannot recollect.

Was there a considerable proportion of it in English?—By saying that there was a considerable proportion, I shall conceive the greater part was written by me in English, but I do not recollect, I should think, as much the one as the other.

Do you mean the greater proportion in English, or about the same?—About the same.

Look at that paper, (the paper produced by the witness,) and tell me whether it does not commence with the departure from Messina?—It does not commence with that, it is in December.

Where does it commence from?—From the 6th of December, which was the day her Royal Highnes arrived at Messina.

When did she set out from Messina?—On the 6th of January.

The Solicitor-General was then about to read the paper, when

Mr. Denman objected to its remaining in his learned friend's hands.

The witness was ordered to withdraw.

Mr. Brougham, in support of the objection, said, that the common use of a memorandum in a court of justice was, for a witness, by referring to it, to refresh his recollection from the contents. But his learned friend (the Solicitor-General), instead of suffering the witness to do that which it was the proper and ordinary course to let him do, kept the document himself, and proceeded, *seriatim*, to put questions to the witness from the contents of that paper. Such a course was most assuredly irregular, and in direct contravention of the rule laid down by their lordships on a former occasion, where a paper was produced.

The Solicitor-General denied that this was in any degree a similar case to that in which their lordships had laid down the rule referred to by his learned friend. He also denied that he was questioning the witness, in the manner objected to, out of this document. He certainly *looked into it, as he* believed he was entitled to do,

while the witness perused it in his hand. He had certainly a strict right to make use of it in this way.

Mr. Brougham said, certainly not, after their lordships had laid down a contrary rule on a former occasion, and decided that a different manner should be observed.

The Solicitor-General said, that his learned friend was evidently blending together two different and distinct things. He was confounding the form of putting a paper as evidence, and merely using it to refresh a witness's memory.

The Lord-Chancellor said, that it was a very different thing to say that a paper should be put in as evidence, and that it should only be referred to for the purpose of refreshing a witness's memory. He thought it perfectly clear and incontrovertible that while a witness referred to a paper to refresh his memory, it was quite competent for the counsel who was conducting the examination also to look over the paper used by the witness.

Mr. Denman said, that his objection was not to his learned friend's glancing over the paper as the witness referred to it, but taking it altogether out of his hand, and using it for quite a different purpose than refreshing the witness's memory, the only thing for which it was produced.

The Solicitor-General said, the only reason he had for taking the paper out of the witness's hand was because Mr. Gurney (the shorthand-writer) was situated between him and the witness, and therefore he could not read it at such a distance. If the witness came next to him, then there would be no occasion to take the paper out of his hands.

The Earl of Lauderdale said, the House ought to consider, at first, whether they could receive this paper as evidence, if it were offered to them as such. He had some doubts upon that point. According to the statement of the witness, this paper was partly written by himself, and partly by another, who was said to be a clerk. If the latter part were not read over at the time by the witness, and believed by him, then, to be the correct account of what it purported to be, how could they admit the contents of it in evidence?

Lord Colville expressed a wish that the witness, on being recalled, should say what log-book it was he had been referring to: or whether two log-books were kept—*one for the ship*, and the other for the witness's own

use. The regular book always remained in the ship, for the use of the owners.

The Lord-Chancellor begged to restate the general rule of evidence which he had before read, and which was to be found in Phillips's Book of Evidence. It was a general rule that a memorandum, to be efficacious according to the rules of evidence, must be shown to have been taken, at the time of the occurrence of the fact to which it alludes, by the person who is speaking of it; or else by some other person, under his examination and inspection so as to check any incorrectness.

Lord Redesdale said, that the witness must have either written the matter himself, or seen it correctly written by another.

The witness was again brought to the bar, and his cross examination renewed by the *Solicitor-General.*

Produce the paper again.

(As the witness withdrew from the bar on the last occasion, he carried the paper away with him.)

Mr. Denman.—I advise the witness not to give it to my learned friend.

The Lord-Chancellor.—Mr. Denman the paper to which the witness is referring must be so placed as that it will be in the eye of the counsel and the witness at the same time: that I take to be the rule.

Mr. Denman.—To that, my lord, I can have no objection: but it is a very different thing for my learned friend to take it out of the hands of the witness, who has it for the purpose of reference.

The witness then placed the paper on the bar before him, so as that the Solicitor General could refer to it.

The cross-examination was then pursued.

What is the first entry?—December.

What is the place?—Messina.

In what language?—Italian.

What is the next?—The 16th.

Where?—At St. Giovanni in Calabria.

n English or Italian?—In Italian.

'he third?—The 17th.

Where at?—Scilla.

English or Italian?—Italian.

he fourth?—The 6th of January.

here?—At Messina.

English or Italian?—In Italian.

e next entry?—Going on board the Clorinde.

English or Italian?—Italian.

e next?—At *Syracuse.*

English or Italian?—Italian.

The next?—The 29th of January.
Where?—At Syracuse, for Catania.
English or Italian?—Italian.
The next?—The 5th of March.
Where?—Catania.
In English or Italian?—Italian.
The next?—The next after was, we shipped on board the polacca at Augusta, the 30th of March.
In English or Italian?—In Italian.
The next?—The 10th of April, at Utica.
In English or Italian?—Italian.
The next?—The 12th of April, Alla Manuba.
In English or Italian?—Italian.
The next?—The 17th at Zavoan, the 19th at Udina, the 22d went on board the polacca.
Look at that paper, and state whether there is a single entry of all the places traced in that paper in the English language?—No, there is not.
Does it come down to the return to Messina?—It does.
And every entry from the beginning to the end is in Italian?—Yes, in this it is.
Look at that paper, and tell me whether you will swear it is your handwriting?—No, I cannot swear it is my handwriting.
Were you on board the Clorinde?—Yes.
Whose handwriting is that paper?—It is the clerk's.
The clerk's?—Yes.
Pasquali?—Yes, I believe so.
Was not Pasquali a confectioner in the service of her Royal Highness?—No, not the Pasquali I mean.
Was he not one of the crew of the polacca?—He was not one of the sailors of the ship, the Pasquali you allude to; there was a Pasquali in the service of her Royal Highness, but not the Pasquali who wrote this.
Was not the Pasquali, that acted as your servant, one of the crew of the polacca?—Yes.
Do you mean to swear that that Pasquali was on board the British ship the Lion, three months ago?—Yes, he was; he went down with me from Messina to La Carta, as being the pilot of the coast, and from La Carta to Catania, where he was discharged.
What became of him in the interval, between the termination of the long voyage, and the time you are mentioning?—I do not know.
What became of the polacca in the interval?—The polacca, she went to Naples; I do not know exactly, I left her at Genoa.
With her crew on board?—Not with the whole of the crew.
Pasquali was left behind?—Pasquali went with me to Messina, he and another sailor who had been with me six years in the flotilla.
Pasquali it was who made this memorandum for you on board the vessel three months ago?—By my directions.
Did you not tell us yesterday, that it was in your own handwriting? I do not remember that I did, it was a thing that escaped my memory, I did not reflect at the moment.
When you were asked that question, was not the paper before you? It was not in my hand at the moment when I answered, and I did not reflect at the moment whether it was in my own handwriting or not.
Now, however, you say it was not in your handwriting, but in *Pasquali's*?—Yes, by my directions.

Will you swear that it is not in the handwriting of Schiavini?—This is Schiavini's handwriting.

Re-examined by *Mr. Denman*.—How long have you lived in Sicily?—Eight or nine years.

Are you in the habit of speaking there the Italian or the English language?—The Italian.

At the time when you went the voyage with her Royal Highness the Princess of Wales, were you then as familiar with the Italian as you are now?—Yes, perfectly, and more so.

The clerk you mentioned, you say you do not know what he was, do you know of what country he was a native?—I believe he was of some part of Italy, but I do not know.

Did he speak Italian?—Yes.

Did Pasquali make a copy from your log-book?—Yes.

Are you a lieutenant on half-pay in the English navy?—I am.

Have you been examined at any time before you came to England; have any questions been put to you respecting the conduct of her Royal Highness on board of that polacca?—No.

If you had received notice of its being necessary, could you have brought that log-book here?—I should suppose I could.

Who was it made the copy from the log-book?—Pasquali.

You stated just now that the paper in your hand was written by Schiavini?—Yes.

When did he write it?—A few days back.

What did he write it from?—By dictating from the paper I had in my hand, witten by Pasquali

Carry back your recollection to the outward voyage from Tunis to Jaffa, you have stated that on that voyage her Royal Highness slept in the cabin; and that when you went to that cabin in the morning, when you were sent for to her Royal Highness, you passed Bergami in his bed; you state that on the voyage from Jaffa to Syracuse her Royal Highness slept in the tent; when you were called to wait upon her Royal Highness in that tent, had you any occasion to pass through the room where Bergami had slept before?—After her Royal Highness had got up, I went up the ladder.

What sort of a tent was it, a double or a single tent?—A single tent.

Did you recollect the breadth of the beam of the vessel?—I should suppose from nineteen to twenty feet.

Counsel then said they had no further questions to ask the witness.

The Solicitor-General then begged that before the witness was ordered to withdraw, he should be ordered to deposit the paper he had with the clerk of the House.

Mr. Denman objected to this application, and said that he was entitled to see the paper before any thing was done with it: he had no copy of it, nor did he ever see it until now.

The Attorney-General said the paper ought to be deposited whether his learned friend saw it or not.

Mr. Denman hoped no insinuation was intended that he had seen this paper before this day at the bar. If such were attempted, he must repel it in the manner it deserved. (Cries of "Order" from the House.)

Mr. Brougham hoped that, if their lordships suffered these insinuations to be flung out at one side, they would in justice allow them to be repelled on the other.

The Earl of Lauderdale said that counsel must abide by the decision of the House, and not provoke unnecessary remarks.

Earl Grey said that it was a duty of their lordships to abstain from replying to any extraneous remarks made by counsel at either side; but when counsel appeared to them to exceed their line of duty to interpose and stop the extraneous remarks, but not to do so by cries of "Order."

The Lord-Chancellor reminded their lordships that the question immediately before them was, as respected the legal reception of the evidence pointed to in the question just put.

Mr. Denman said, that he had never proposed that the document in question should be produced in part of evidence as to the affirmative of the question propounded to the witness; and he was therefore in some surprise at the course pursued on the other side.

Examined by the Lords.

Lord Kingston.—You say that you fitted up the Princess's cabin, what was the length and width of the door?—The doors might have been from three feet to three feet and a half wide; there were two divided.

What height?—I should suppose about six feet.

What was the depth of the Princess's bathing tub?—I cannot state precisely the depth of it; but I should conceive from two and a half to three feet.

If that tub was laid on its side, could it be slewed in the cabin?—No, I should hardly conceive that, unless both doors were open, it could; it might have gone one end of it, but the whole could not have gone in.

If both doors were open, could it have been slewed in?—One part could have been got in, the half of it could have been got in, but it could not have gone the whole.

Describe the reason why, if one half of it could go in, the rest of it could not go in?—Because there is not length.

Not length in the cabin?—There was not length from the sofa where her Royal Highness slept to the door of the cabin.

What length was the cabin?—The cabin on the floor, I should suppose, could not have been more than ten feet, or ten feet and a half.

What length was the Princess's bathing tub?—The Princess's bathing tub must have been at least six feet, or nearly that.

Do you mean to say a tub six feet could not have gone into a room of ten feet and a half?—But there was the sofa there.

Was that sofa immoveable?—It was moveable, but it never was removed.

Was it fastened to the floor?—It was; there were two sofas.

And it could not be removed from thence?—It could have been removed, but it never was removed.

You are positive it never was removed?—Positive, till her Royal Highness disembarked at Capo d'Anza.

What distance was the sofa from the door?—About a foot and a half, or two feet at the most.

When the doors were thrown open, the bathing tub could not be slewed in on one side of the sofa?—No, certainly not.

Did you not say that the lights on deck in the tent were put out for fear of pirates seeing you?—Yes, after our departure from Jaffa.

Where did the binnacle stand?—By the mizen-mast.

Just before the helmsman?—Yes, close to the helmsman.

Was the binnacle where the light was put in glass all round?—Glass the forepart and glass on the afterpart.

Did you keep the afterpart open; were you not afraid of the pirates?—The forepart was generally kept open; there was a hole on the afterside of it; also a very small hole, just sufficient to enable the helmsman to work at the compass.

On what side was the door into the Princess's tent?—There was no door.

Where was the entrance?—It hauled up, it was not confined to the deck, by puting your hand on the lower part, you could lift it up.

When you went to her Royal Highness on being called, where did you lift up the tent?—The afterpart, close to the mizen-mast.

When lifted, could you see all through the tent, all over it?—With the reflection of the light of the binnacle I could.

And you can take upon you to swear, there was nobody there but the Princess of Wales?—I can.

You slept on the tiller?—I did.

And you also mentioned, that you could hear two people speaking? If there had been two people in the tent speaking, I could have heard them, if they had been speaking as you now speak.

How comes it you could not hear the Princess speaking to you?—Sometimes the wind was blowing, and the materials of the ship worked so, that I could not hear distinctly; I heard, but not distinctly, what she had to say.

Was that never the case when you were in your sleeping cabin?—I never slept in my cabin from the time we left Jaffa till we got to Sicily, except one night alone.

Where did you sleep then?—Over the helmsman in my cot.

Could you always hear what was said in the tent from your cot?—Not always what was said, I could hear there was a voice; but could not distinctly say what it was.

But you could distinguish whether two people were talking or not?—I never did distinguish two people talking there.

If two people had been talking there, you would have distinguished them?—I should have heard their voice.

And known that two people were talking?—And known that two people were talking.

You were frequently called down to the cabin by the Princess, you mentioned to receive directions?—On our voyage out I was.

Was there a light in the dining-room?—Sometimes there was, sometimes there was not.

Did you ever see any one sleeping in the dining-room?—At night I never saw any one there, I only knew there was a bed placed for Mr. Bergami in the dining-room, and one morning I saw him.

But you never took notice of them there at night?—I never went there to see *whether he was in bed* or not, it was not my duty to go there.

But when you went down, called by the Princess, and passed through the cabin, did you ever see Mr. Bergami?—Only that once.

That was in the morning?—Yes, it was in the morning.

When you were called down by the Princess in the night, did you never take notice whether Mr. Bergami was there or not?—No, I never took notice; he must have been there I suppose, the bed being placed there for him; there was a screen, I could not see whether he was there without drawing back the screen.

The Earl of Donoughmore.—On the subject of these memorandums, you say that these memorandums which you have had occasion to refer to in this House, were taken by yourself out of a larger paper memorandum, which you say is not the log-book; have you been always in the habit of taking such memorandums?—They were taken from my memorandums by my direction.

Have you on all occasions, on all voyages, been in the habit of either taking such memorandums yourself, or of causing them to be taken for your use by some other person?—For my own use.

You have always been in that habit?—Yes.

On all former voyages you have been in the habit of taking memorandums, or causing memorandums to be taken for your use?—Not on all occasions, I never have.

Have you been usually in the habit of causing memorandums to be taken?—For my own private use I have.

You were asked why you did not bring with you the original papers in which those memorandums were first entered, instead of those extracts; to that you answered, that there were some private memorandums in it, matters of your own private consideration, and therefore you left them behind, and only made these extracts; do you mean to say so?—I mean to say that the memorandums, I mean the private ones, were to a degree of speculation, as I had been a long time residing in Sicily, and had become more a mercantile person than any thing else.

You have said that you took these extracts from that larger paper of memorandums for the satisfaction of your friends; what did you mean by that, why for the satisfaction of your friends; explain what you meant by so saying?—When in Sicily, I had frequent occasion to see the public papers, and having heard repeatedly that evidences were required in England, and that all the persons who had made the voyage with her Royal Highness the Princess of Wales would be recalled, and as I was on my return to England, I thought a memorandum of that kind would serve to refresh my memory in case of being called for.

When did you first hear that account?—In Sicily, in Messina.

At what period was it that that account came to your ears?—To my recollection, I should conceive about three months ago.

Where were you at the time you so heard?—At Messina, between three and four months ago.

Was it at Messina, immediately after hearing that account, that you made those extracts from the larger memorandum?—Yes.

Was it at Messina you made those extracts, immediately on hearing what you have mentioned to have heard?—On my departure from Messina I commenced making them.

Were you just about, at the time those reports reached you, to leave Messina?—I was.

And then in your voyage you referred to your larger paper to make *these extracts?*—I did.

Having brought the larger paper with you for that express purpose? —The small memorandum which I brought was for that purpose.

Do you of course on every voyage take all the papers which you have had with respect to all former voyages?—No.

Why did you happen to take upon that new voyage those papers referring to a former voyage?—From the papers which I saw in Messina, the public papers, which governed me.

What is become of that larger paper; where is that larger paper from which you made the extract?—In Messina.

You have come from Messina, and have left it at home?—Yes.

Then the larger paper you made for the satisfaction of your friends, and the extract from that paper you have made on account of public reports, and conceiving you might be examined as a witness?—Yes, I expected that; I thought it probable.

How long have you been a lieutenant in his Majesty's navy?—I have been eleven years a lieutenant.

What was the origin of the acquaintance you had the honour of having with the illustrious person who is the subject of this bill?—After the siege at Gaeta, where I had served as a volunteer, I was sent to Rome with a general, who commanded Gaeta, from thence I returned to Naples, where I received private instructions from the Neapolitan government to proceed to Corsica on a secret excursion, to make inquiry respecting the situation of Murat, the Ex-King of Naples; then after having sacrificed myself four nights and four days in continuing in the woods among the Corsicans, to gain intelligence respecting Murat, I returned to Naples; having delivered those reports which I had gained to the Prince of Hesse, I returned to Messina. The gunboat which I then was serving in had orders to proceed to Corfu; but before the wind permitted for her to sail, Captain Briggs came in in the Leviathan, and I was presented by Captain Briggs to her Royal Highness; from that moment her Royal Highness inquired what I was going to do, and as I had nothing particular to do, she invited me to proceed on the voyage with her, which I did.

You mentioned, that her Royal Highness gave you the command of the polacca?—She did.

Do you mean by that to say, that her Royal Highness gave you the entire control of that vessel?—When I say she gave me the command of the vessel, I conceived that every person on board rated to the crew were subordinate to the orders and instructions I might give from time to time.

Do you conceive, or not, that her Royal Highness, in giving you the command, gave you the entire control of that vessel?—I conceived so.

Had you not settled, before the voyage, where each person was to sleep during the voyage?—Does the question allude to the crew?

Not the crew, but the passengers?—Certainly I had, after the ship was hired.

Did you not consider the whole ship and the crew, so far as the voyage was concerned, as under the entire control of her Royal Highness?—Yes, under the control of her Royal Highness.

Do you not therefore consider, that whilst her Royal Highness was embarked on board that polacca, she had a right to conceive that she was mistress of that polacca, as much as she was of any house or palace in which her Royal Highness might reside?—Most assuredly I conceive so.

The ship was *hired by yourself,* and all the persons were paid by you, *were they not?—They were.*

Must they not have conceived, that they were to look up to no person but her Royal Highness during that voyage?—They had to look to her on all those occasions, but all the orders that her Royal Highness gave from time to time to me, were generally represented by me as much to the captain as any other persons on board.

Did not you therefore consider, that in any thing that her Royal Highness chose to do, any conduct that her Royal Highness chose to pursue while on board that polacca, she must have considered herself equally free from any interruption, as if those transactions passed in any house or palace of her own?—Yes.

Whilst the tent was upon the deck, do not you conceive that the crew would take particular care not to incommode her Royal Highness during the night, by passing too near that tent?—Not without the occupation of the ship required it, they would not have done it.

Therefore, speaking of yourself, who had the command, and speaking of your opinion of all the rest, you conceive that every possible pains would be taken by all the persons on board to prevent giving her Royal Highness the least possible interruption?—Certainly.

Her Royal Highness it appears paid the captain for his vessel?—Yes.

The question is not meant to reflect upon yourself, but did you receive any remuneration, and what, for the time you passed on board that vessel, the polacca?—For my own trouble, do you mean?

Being as if in the family of her Royal Highness during that voyage, did you receive any and what remuneration from her Royal Highness?—On my departure from Sicily no arrangement was made for me, nor did I expect it; on my arrival at Tunis, her Royal Highness sent me a sum of money; I do not know the sum, but I believe I was allowed 200*l.* a year; that sum I rejected at first, stating, I did not join her Royal Highness for any interested motive.

You had rejected that sum at first?—Yes.

Did you afterwards think you were justified in receiving compensation?—I was informed that I should give offence to her Royal Highness by not receiving it.

What was the compensation that you received?—I believe, to the best of my recollection, it was two hundred dollars; I cannot be certain.

Is that all you have received?—I did receive some afterwards, until I left the polacca at Genoa.

The question is not what you received at any particular period, but state all you received, and the different times you received it, as far as you recollect?—I believe myself to have received three times only the sum of two hundred dollars each.

State the particular times, as far as you recollect, of having received each of those sums?—The period I cannot recollect; but I believe my memory is so good as to enable me to remember the places where I received it; they were, Tunis, Constantinople, and St. Jean d'Acre.

All you received was during the voyage?—Yes.

Have you received any thing since the termination of the voyage?—No, I have not.

You talked of 200*l.* a year salary, is there a salary of 200*l.* going on besides?—No, there is no salary; the sums I received at different times were all.

You have no salary?—No.

Nor do you expect any?—No.

You are not at present of her Majesty's family?—No; nor was I *after the ship* reached the port of Genoa.

How long have you been come over here;—I have been here about a month, I believe.

Were you summoned to appear before this House?—No, I was not.

Did you come to offer yourself as a witness, thinking you had something material to communicate?—I presented myself to her Majesty, as having been upon the voyage with her, nothing more than that.

What was the whole sum you received from her Royal Highness?—The three different sums I have spoken of, I believe to have been 600 dollars; 200 dollars each time.

You seem to have been more particular in your observations in the voyage outward, than in the voyage inward; that is, you have been able to speak more to the particulars with respect to where Bergami slept, and appear to have made stronger observations with respect to what passed in the voyage outward, than with respect to what passed in the voyage home, what is the reason of that?—I can only speak from this, that going out, I had more occasion to see Bergami, as we generally dined in a place where I saw him every day.

Perhaps you were more in the habit of seeing him?—I had frequent occasions of seeing him, daily and momentarily.

In the voyage outward, you have said very decisively where Bergami slept, you have sworn positively that he slept in the dining-room?—Yes, I saw him there.

Why are you not able to speak as positively as to the sleeping-place of that person in the voyage homeward, as you were in the voyage out?—Because her Royal Highness having slept on the deck, I had not so much occasion to go down to the bed-cabins below.

You were able to swear, from your positive knowledge, as to where he slept in the voyage out?—Yes.

How does it happen that you are not able to make a belief as to where he slept in the voyage home; what was the length of the voyage; a month?—I never went into those apartments, nor drew back the skreen, to see whether he was in bed or not; the skreen was there during the whole voyage out and home.

You were the person who distributed the births, and appointed the sleeping-places of the different individuals in the voyage out; why did not you take the same pains in the distribution of the births in the voyage home?

Mr. Denman submitted whether this question was not in an improper form, as assuming that which the witness had not said.

Did you make a distribution of the sleeping-places of all the passengers in the voyage outward?—Yes.

Did you make the same distribution on the homeward voyage?—There was no occasion; the bed which I gave him on going out was the place he had in coming home to sleep in; whether he slept there or not I do not know.

You have stated over and over again, that you do not know where he slept upon the voyage home?—I do not.

How is it that as you are so competent to form the negative idea, that is, where he did not sleep, you are not able to state where he slept during that voyage of a month; how is you feel yourself competent to give the decisive declaration you have given, that he did not sleep under the tent?

Mr. Brougham.—Really, my lords, I cannot admit this

question to be put. The noble lord has assumed that the witness stated he knew where this individual slept; whereas, on the contrary, he has declared over and over again, that he could not say where this person slept.

Here there was a cry of "Let the witness withdraw."

The Duke of Clarence.—I think the counsel ought also to withdraw.

The counsel and the witness having withdrawn,

The Duke of Clarence said he rose to order. It had been said by a noble earl, that day, that when any thing irregular or improper occurred at the bar, no noble lord should cry "Order," but state what passed, and offer his objection to it. He would pursue this course. He conceived that the conduct of the learned counsel, a few minutes before, was not what it ought to be. He thought that the learned counsel had commenced an objection in a manner not suitable to the dignity of the House. He had stated, that "*he could not permit* a question to be put in a particular way." This is all I have to say. I do not wish to interrupt my noble friend, but I did not think the objection stated in a way suitable to the dignity of your lordships.

Lord Foley observed, that it was the duty of counsel, upon all occasions, to prevent improper questions from being put to the witnesses, and it was more particularly their duty to be guarded as to those questions which came from noble lords who were not so conversant with the rules of evidence.

The Duke of Clarence.—I do not mean to say, and God forbid that I should, that we, who are not professional or learned lords, should not be stopped by counsel, either by those who support the allegations of the bill or by those who appear for her Majesty, if improper questions are demanded. The counsel are, undoubtedly, bound to do their duty. But I think it the duty of this House to see that due respect is paid to it; and that counsel, when they address your lordships, should state, in a proper and respectful manner, whether a question, in their opinion, should or should not, be put.

Lord Redesdale concurred in the opinion that objections ought to be put in the most respectful manner.

The Earl of Albemarle observed that the counsel was stopped in the midst of his reasoning on the question, which he did not consider a just course of proceeding.

The Lord-Chancellor said it was nothing more than

reasonable that they should allow counsel to interrupt any of their lordships, if he conceived that an improper question was asked of a witness. He apprehended that the learned counsel did mean to act on that principle. At the same time, he was sure, as other professional persons would be, that, in addressing their lordships (he said it without intending to give any body offence, and even if it did give offence, he still felt himself bound to state it), a different language should have been used. The language that had been resorted to in opposing a question was not exactly that which it ought to be. He was sure, however, at the same time, that the learned counsel meant nothing disrespectful.

The Earl of Donoughmore thought the House was much obliged to the illustrious person in the gallery for the interruption he had occasioned; at the same time he would do justice to the learned counsel, who, he was convinced, had no intention to give offence to their lordships. He was quite sure that the learned counsel entertained no such intention. His conduct during the whole of this proceeding had been most correct and becoming. He agreed that the objection of the learned counsel would have been a proper objection, if he had stated his (Lord Donoughmore's) question as he really put it. If he had put such a question as the learned counsel seemed to suppose, it would be highly proper in him to object to it; indeed, he ought not to have suffered such a question to go forward without objecting to it. He (Lord Donoughmore) stated what appeared to him to be the fact. He never intended to put into the witness's mouth that which he never uttered.

There was here a cry of "Call in the counsel."

The Earl of Donoughmore.—The question which I intended to put, and which I am quite sure I did put, is that which will be now read.

The shorthand-writer, Mr. Gurney, read the question:—

How is it that you are so competent to form a negative idea of where he did sleep during this voyage of a month, and yet that you give a substantive declaration that he did not sleep under this tent?

The Earl of Donoughmore.—That is not exactly the shape in which I thought I had put the question. Read the latter end of it.

The shorthand-writer having done so—

The Earl of Donoughmore said, certainly, if I put the question *in this shape*, it ought to be objected to by

counsel. I did not intend to put it in that form at all. The question I intended to put was this:—

Here counsel were called in.

The Earl of Donoughmore continued. My question was this:—

Having sworn on your direct examination that you did not know where Bergami slept on the voyage homeward, account how you are enabled to form at once a belief as to the negative—namely, where he did not sleep—that is, under the tent?

Mr. Brougham said, he could assure their lordships that he meant nothing offensive or disrespectful in the words that he had used, and which had recently been objected to. He believed their lordships would recollect that, of the fifty or sixty times during which it had been his painful duty to oppose particular questions, he had proceeded in the same way. He had adopted the shortest possible course, and stated that he could not permit such and such questions to be put. He had, for the sake of brevity, dispensed with his ordinary phraseology, and adopted that language, which, he believed, had always been allowed to the managers of impeachments before that House. Here, on the part of the bar, on behalf of the legal profession, he claimed the same liberty of speech that was allowed to the manner of impeachments. At the same time he would now wave the exercise of that privilege—he would, for the moment, lay aside that sort of phraseology that had been objected to, and use that language which was most congenial with his feelings, and with the respect that was due to their lordships. He had objected to the former question because it was wholly different from the question now before their lordships, which he considered unobjectionable.

The Earl of Donoughmore.—Read the last question.

The shorthand-writer read the question, as previously given; to which the witness answered—

On the times that I have been sent for, or called for by her Royal Highness, I never did see him there.

You have said, on your direct examination, that in the day-time you have seen Bergami sitting on the iron bedstead in the tent?—I have.

You have seen him sitting on the bedstead in the tent?—I have; and I have seen other persons.

Then having seen Bergami sitting on that bedstead in the day-time cannot be a reason for conceiving he did not sleep in it at night?—I have no other reason than having been frequently called for on our return from Jaffa by her Royal Highness, to know how the weather was; I have opened the tent frequently, I do not know the number of times, and have never seen him there: had he been there, I certainly should have seen him, from the light of the binnacle.

This question was put to you at different times by Mr. Solicitor-General; namely, can you have a doubt of Bergami's having slept in the tent; do not you recollect that question having been put to you by Mr. Solicitor-General?—Yes, I do.

Did not you answer that question repeatedly, by saying that you could form no opinion upon the subject; that you had other things to do; that you had the management of the vessel; were not those the sort of answers which you gave to that question, when put by Mr. Solicitor-General?

The following extract was read from the evidence of the witness of yesterday:—

"Have you any doubt that during that voyage, and the whole of it, Bergami slept upon that bed under the tent?—I cannot say where he slept; I never went to look after Mr. Bergami; when he was wanted, or where he slept, it is impossible for me to say, I can only repeat that I never saw him in bed.

"Have you any doubt that he slept on that bed every night on the voyage from Jaffa to Syracuse?—I cannot say.

"Have you any doubt upon the subject?—I must certainly doubt whether he did sleep there every night, or whether he slept there at all I cannot say, for I never saw him there, nor do not know where he slept.

"Do you mean to say you entertain doubts whether he did sleep there, and believe that he did not sleep there?—When I never saw him there, I have every reason to doubt that he did not sleep there.

"Do you mean by that to say that you believe he did not sleep there?—I believe he did not sleep there.

"Where did he sleep?—I do not know; I never went to look where he slept.

"Did you ever see him sleep in the cabin on the voyage from Jaffa to Syracuse?—I never went into the cabin in the day-time to see whether he was there or not."

Referring to those several questions, and to your replies to those questions, having so strong an impression, as it appears to have made on your mind, that Bergami did not sleep under that tent, why did not you prevent the necessity of being questioned so often upon the subject; why did you not at once say, I have not only no doubt as to his not sleeping there, but my belief is that he did not?

Mr. Brougham opposed this question, as assuming a fact which was not in evidence. The question assumed that the witness had said that which he not only had not said, but, so far from it, when interrogated on this particular point, had sworn directly the reverse. He had not declared that there was an impression on his mind as to either where Bergami did sleep or did not sleep. The question assumed that the impression on the witness's mind was, that Bergami did not sleep in the tent.

The Earl of Donoughmore denied that this was a correct statement of his question, which he desired might be read.

The question was read by the shorthand-writer.

Mr. Brougham observed, that he now found there were two objections to this question, although he had originally stated but one. The first objection was, that there was a strong impression on the mind of the witness, but he denied that the witness had said any thing like this. When called on to speak to the fact, he said he knew nothing of the matter: and then, being obliged to speak as to his belief, he stated, "I have no knowledge on this subject; but as you press me for a belief, with respect to it, I must say, that, from all I saw, I believe that he did not sleep there." The next objection was very important; the question went a great deal further. It assumed that the witness had no doubt of Bergami's not sleeping in that place. The fact was, that, although he spoke on this subject with very great doubt—

The Earl of Donoughmore.—The witness appearing to have had a strong impression on his mind that Bergami did not sleep under the tent, and having, under that impression, expressed his belief that Bergami had not so slept under the tent, why did not the witness at once, in answer to the Solicitor-General, express the opinion he has since done?

Mr. Brougham submitted, that this question was exactly the same as that to which he had objected.

The Lord-Chancellor stated that a question of this kind could not legally be put. If the witness had declared that he felt such an impression, then it would be proper to state that he had said so and so, and, repeating his words, to found a question on them.

The Earl of Donoughmore.—The witness having stated his belief that Bergami did not sleep under the tent on the voyage home, why did he not state that belief, immediately, in answer to the first question? (The question was deemed inadmissible.)

You said something with respect to the fear of pirates, and of putting out the lights in consequence of that fear?—I did.

Have the goodness to mention what it was you stated upon that subject?—

The following extract was read from the evidence of yesterday:—

"Do you recollect the light being sometimes put from under that tent, to be taken away at night?—It was taken away for the preservation of the ship, and all on board her.

"How so?—We had received information at Athens and at Milo of a great many pirates having been about the Archipelago, and it was then consistent that no lights should be seen upon deck, not to give *such vessels an* opportunity of seeing us by night.

"Do you know whether there were any pirate vessels; at any time had you seen any?—Yes."

The Earl of Donoughmore.—When was it that you received that information?—We received that information at Milo.

When was it, in consequence of that information, you began to take away the light?—After we had left Jaffa.

You first heard the report at Athens?—Yes.

And it was after you left Jaffa you began to take away the light?—Yes, the information was confirmed.

You have mentioned that you have gone into the tent at night when you have been called at night?—I have never gone into the tent.

Have you gone to the door?—To the opening.

That you lifted up the tent so as to see her Royal Highness?—I opened it, or lifted it up so as to look in.

How was her Royal Highness dressed?—She was dressed.

Lying on the bed dressed?—Yes.

Earl Morton.—You have stated that on board of the polacca, the binnacle was glazed both on the side next the steersman, and on the opposite side?—Yes, or that there was a drawer or slide, I am not positive which.

You have stated, that it was by the light of the binnacle that you saw the interior of the tent, when you lifted up the curtain, or opened it?—Yes.

Was it by the light of the side next the steersman, or the opposite side?—It must have been from the light on the opposite side, or from both.

Did not the light from the opposite side of the binnacle strike full on the side of the tent when it was closed, so as to render it visible?—It did.

You have stated, that you caused lights to be put out, from an apprehension of being seen by the pirates?—I have.

Was that issue of light, on the opposite side of the binnacle, necessary for the steersman?—It was not.

Then how came you not to conceal it, in order to prevent the reflection upon the tent being seen by the pirates?—It is necessary to give vent to the light in the binnacle, or it will not keep in.

Is it not usual for a binnacle to have air from the top?—It is; but when it had not sufficient, it was allowed in other parts.

State to the House whether you do not think there would have been very great danger of the light in that binnacle being blown out, if it was left open in the manner you describe in the forepart of it?—If it had been left entirely open, there would.

If there was a shutter, as usual on the forepart of the binnacle, might it not have been left sufficiently open to admit of air, without any considerable light issuing from it?—Yes, and sufficient light to allow me to look into the tent, as it was so near.

In the course of your experience as a seaman, have you not always observed great pains taken to prevent any light issuing from binnacles at all at sea?—I have, on board King's ships, but on board such a vessel as this there was not all those conveniences that are required.

What is meant by the word conveniences there?—That it had not a regular funnel to lead the smoke from the light which there generally is on board a man of war; that there were holes penetrated in a piece of lead, which did not admit sufficient air.

Were *you correctly understood* then, in the early part of your exa-

mination yesterday, to have stated, that you were captain or master, or in charge of that polacca, during the voyage which her Royal Highness the Princess of Wales made in her?—Yes, by her Royal Highness's direction I took the command of the vessel.

Can you state whether or not you had the means on board that vessel, under your direction, of having a few holes perforated in the top of the binnacle, or a small funnel let into it, so as to enable the light in that binnacle to burn all night, without exposing the vessel to the risk she run, with so illustrious a personage on board, from the piratical vessels you describe to have been hovering about you?—I had not the fitting up of the ship, excepting that part which was made up for the convenience of her Royal Highness, and did not particularly observe that there was such a thing wanted until it actually was wanted, or if I had I should have done it.

Was the navigation of the polacca in that voyage intrusted to you, the shaping the courses, and keeping the ship's way?—Yes, I kept the ship's reckoning myself; it was kept also by the captain and the mate.

By whose reckoning was the ship steered or conducted?—Generally speaking, I believe my own.

Be so good as to state more explicitly by whose reckoning the ship was navigated from land to land?—We compared our works, and we divided them, and the course was then distributed among the three works, and the course was shaped from those works.

After comparing the respective reckonings with each other, who gave the directions for the course to be steered subsequently?—Myself to the captain, and the captain gave it to the other subordinate quarter-masters.

You being charged with the navigation of the ship, how do you explain your having said, that the fitting up of the binnacle was but a trifling matter, or something to that effect?—I mean to say, that the charge of the ship was not given to me till I left Augusta by her Royal Highness; I had the order to fit the ship up, but I had not the command of the vessel until we sailed from Augusta.

Did the vessel not possess the means of rectifying any defect in the binnacle when at sea?—If it had been distinguished, it certainly would have been, but I did not observe it until the reports of the pirates.

As it appears by your statement, that there were two captains or two masters on board the polacca during the voyage alluded to, state to the House who was the regularly constituted authority having charge of that vessel, her stores, provisions, &c. and responsible to the owners of the vessel for the same?—The part owner, who was the captain I believe; I had nothing to do with the stores, or the victualling of the crew; when I hired the vessel, the victualling of the crew was to be paid by the captain.

State the name of that captain, if he sailed in the ship?—Gargiulo.

Whose duty was it to keep the log-book of that ship during the voyage alluded to, the log-book kept in all merchant ships?—The mate or the pilot; he is termed pilot in that country.

Was the log-book actually kept by that person?—I do not know.

In what book was the ship's reckoning inserted?—By the chart.

In what book was it inserted?—In the general log-book, I presume.

But you do not know who kept that log-book?—I do not.

Was the tent which you have alluded to, on the deck of the polacca, erected by your directions?—First by those of her Royal Highness, *and afterwards* by my own.

Were the directions to the sailors to erect that tent given to them by you, or by any other person?—They were given by myself.

In consequence of the Princess's directions?—Yes.

Can you inform the House the dimensions of the tent; its length, and its breadth, or nearly so?—It is impossible I can state the length of the tent, but it was from the mizen-mast to the main-mast.

Did the afterpart of the tent, or that next the stern of the ship, touch the mizen-mast?—Close to it.

Was it fixed to it?—Yes, the ridge rope was fixed to it.

Are you unable to form any idea of the length of the tent, as you must have some notions of the extent of the ship?—I did not measure the precise distance, but I should conceive between the mizen-mast and main-mast there must have been a distance of twenty-two or twenty-three feet; perhaps more, but I cannot be precise.

Are you to be understood to state, that the tent must have been nearly twenty feet in length, or thereabouts?—Yes, I should suppose it was.

You stated that the breadth of the ship in that part of it was somewhere about nineteen or twenty feet?—Yes; but I cannot be precise, for I never measured it.

How much less than the breadth of the ship was the breadth of the tent, do you suppose?—I should consider about a foot, for it hauled out to the rigging on each side.

In reference to the mizen-mast of the polacca, where did the binnacle stand?—By the mizen-mast.

Before it or behind it?—Abaft it; it could not be before it on account of the tent.

Are you rightly understood that the whole of the space inside the tent was sufficiently illuminated by the light of the binnacle to enable a person looking into the tent by lifting up a part of it, as you have described, to see every object in that tent?—Yes.

Are you understood rightly to say, that the communication by the companion ladder, which led from the interior of the tent into the dining cabin, was always open by night?—The passage was open, but the tent covered the hatchway.

What space of time do you conceive was necessary for a person to occupy in descending from the tent to the dining cabin by that open communication?—Speaking of myself as a sailor, I could do it in a second.

How many persons did the crew of the polacca consist of?—Twenty-two.

As the navigation of the polacca was intrusted to you, perhaps you can inform the House, how many of those twenty-two sailors were in the habit of going to the helm in their turn?—I believe three, I never knew of any more.

How often were they relieved?—They performed, the whole watch, four hours, exclusive of the two hour watches, which fell from four to six, and from six to eight.

Lord Grosvenor.—You have said that you did not know where Bergami slept on the return voyage from Jaffa; do you know where Hieronimus, or any other of the Princess's suite, slept during that time?—I know where Hieronimus slept.

Where did he sleep?—The foremost cabin, on the larboard side.

Do you know where Mr. Austin slept?—He slept on the opposite side.

Any other *of the suite?*—*Mr.* Hownam on the larboard side,

In the course of your evidence, you have mentioned a tub which her Royal Highness used for bathing; do you know whether she ever did use it for bathing?—I know that water has been for that purpose; I do not know that her Royal Highness used it for that purpose, but I have every reason to believe she did, from having heard so.

Where did that tub usually stand?—I have seen the tub in the dining-room.

On which side?—On the starboard side.

The Duke of Clarence.—How many years were you a midshipman?—I do not know precisely, I believe from seven to eight years.

How many years were you in the King's service, before you were a lieutenant?—I believe to have been eight, I do not know.

If you have been eight years a midshipman, and eleven years a lieutenant, you have been accustomed to the sea for nineteen years?—Yes, certainly.

Describe the make of this binnacle?—It was a small case with two compasses, one on each side, and in the centre a light for the steersman to look to, and on the foreside I cannot be positive whether it was a glass, or whether it was a door; it was something of that kind, but I cannot be positive which.

How was the light shown forward?—There was an opening, the front of the binnacle.

Was that opening of glass or of wood?—I cannot positively say, but I rather believe it was of wood.

If it was of wood, did it move up or down, or athwart-ships?—Athwart-ships.

You having stated that it was advantageous for the safety of the vessel that as little light should be shown upon deck as possible; from your knowledge and experience of nineteen years, could you not have so arranged that binnacle, though at sea, as to have kept the forepart covered, so that the light should not have been produced forward?—By closing up the front part, the light would not have kept in.

Could you not, as a seaman, have found a means of having let the smoke out, and yet have confined the light from being seen forwards?—By making larger holes in the top of the binnacle I could have done it.

If you conceived that the safety of the vessel depended upon the light being as much confined as possible on board, why did you not then make those holes to prevent light being seen on deck?—It would then have admitted the water to have fallen on the light in the binnacle, as it was directly over.

What water?—The rain or sea.

What was the upper part of the binnacle through which part of the smoke must have gone out?—Lead.

Was that part flat, or was it all raised?—It fell in rather.

Did you, in the nineteen years you have used the sea, ever see a binnacle where the lead fell in before?—On board the ships in the Mediterranean they are obliged to have a part in the front of the binnacle open to trim the light, as it is always a lamp.

The question is, why is the lead, instead of being as in a British man of war, where the lead is elevated into a funnel, the reverse way in those vessels in the Mediterranean?—I found it so when I went on board;—and when it was necessary to be arranged, I had not the means of accommodating it.

Where did you go on board this vessel first?—In Messina.

Do you pretend to say, in the port of Messina, you could not have altered so material a thing as the binnacle of a ship, previous to her sailing?—No; had I observed such a thing to be wanting I should certainly have done it, but I did not observe it.

Do you conceive that, having charge of that ship, under the Princess of Wales, you did your duty in not having examined that binnacle?—I had not charge of the ship at the first moment.

When had you charge of the ship?—After I left Sicily.

How many days were you at sea before you touched in port, after sailing from Sicily?—One night only.

Where did you hear of the pirates?—We heard of the pirates at Milo.

Was that in your voyage up?—It was.

How many days were you from Milo to your next port?—Only a few hours going from Milo to Athens; but we did not put much confidence in the report of pirates till we came down from Constantinople, until we came down to the island of Scio.

Were there no means in the island of Scio to have altered the binnacle?—Had we stopped long enough we might have done it.

From the island of Scio, where did you go?—To Scala Nuova.

How long did you lie at Scala Nuova?—I do not exactly remember: I should think two days.

Could not the binnacle be altered in less than two or three days?—At such a place as that I fear it would be very difficult; and I did not observe that the binnacle wanted any of my attention at that time, for I had always heard that the binnacle was in perfect and good condition, and I did not observe it.

The question refers not to the position of the binnacle, but to the positive effect of the binnacle; do you pretend to say, that in the different ports in which you were, you could not have altered the binnacle?—If I had found it so materially to want it, I should have done it; but I had not observed it till the moment it was wanted.

Did the binnacle stand amidships?—Yes.

It stood abaft the mizen-mast?—Yes, it did.

The ridge-rope of the tent was fixed to the mizen-mast?—Yes.

What was the tent made of?—Malta cotton, I believe.

It was made of cotton?—Yes, the ship's tent.

It was the ship's tent?—Yes, the ship's tent was made of cotton.

How was it fastened to the deck?—It was fastened to the combings of the hatch abreast, and the part abaft to the side of the mizen-mast.

It was fastened forwards to the combings of the hatchway?—No, there were no combings of the hatchway, except that part which went down to the cabin and the skylight.

How was the tent fixed forward?—It was fixed to the main-mast and to the main rigging.

How was it fixed to the deck itself?—There was another piece which joined on the front part of the tent, and that fell down on the deck.

How was that fixed to the deck?—It was lashed down to ring-bolts.

How was the afterpart fixed?—One end was lashed, and the other part was tied down with rope-yarn against the mizen-mast.

You said you looked into the tent occasionally?—Yes.

State the nature of the opening into the tent?—Both the forepart

and the afterpart of the tent, there are two pieces which fall down from the upper part of it, and the ridge-rope which falls down perpendicularly with the mizen-mast; it is there lashed together with rope-yarn, inlaid with rope, not the same as if you had sewn canvass to the rope, but a foot short, more or less.

You said that the hatchway was within the tent?—Yes, I say so still.

Why was the light at night handed out on deck, and not handed down below?—I do not remember its having been handed out of the tent; I never saw it handed out of the tent.

Mr. Brougham objected to this question. The witness had never said that the light was handed out of the tent and not sent below, and therefore could not be asked what was the reason of its being done.

The Duke of Clarence maintained that there was an answer to that effect in the minutes of the evidence given by this witness.—(Cries of no, no; it is in Majochi's.)

The witness here said, "It is not in my mind that I ever gave such evidence."

You stated that the Princess's bed-chamber had one or two doors?—It was one door divided into two.

What was the length of the cabin; you say ten feet?—Yes, I should conceive about ten feet.

How many sofas are there in it?—Two.

How were the sofas placed?—Lashed together.

To which side?—To the centre of the ship.

In the centre of the cabin?—Yes, from the centre of the division off towards the starboard side of the ship.

What space was there between the sofas and the larboard side of the ship; what breadth do you suppose?—There might have been as much as five feet or six feet, I cannot positively tell, because going from the starboard is going over to the countess's room.

Suppose the double doors open, could the bathing-tub have been carried into the bed-room?—There was not room for it.

You are perfectly sure of that?—I am perfectly sure of it.

When the tent was put on deck, was not there an iron bedstead and a sofa placed under it?—There was.

The Earl of Kingston.—Was the sofa taken out of the Princess's room?—It was taken from the Countess Oldi's room.

Was the sofas cleated down in the Princess's room?—They were.

The Earl of Balcarrus.—Did your private log-book differ occasionally from the log-book of the ship?—I cannot say.

Did you conceive yourself entitled to alter, correct, or confirm the regular log-book of the ship?—No.

Did the master regularly report to you?—He never reported anything respecting the log.

Did he report to you on common occasions respecting the ship?—Such as when it was time to observe the sun he did.

Had you ever a punishment to inflict?—No.

Did he report to you as a lieutenant in the navy, who was his superior officer?—He always addressed me as the commandant of the ship on all occasions.

Did not you find that half kind of command very inconvenient, and

contrary to the good order and diſcipline of the ſhip?—I cannot ſay I ever experienced any negligence on the part of the captain or of the crew to my orders.

Did you aſſume the command becauſe her Royal Highneſs was on board, or by virtue of any charter-party?—I aſſumed it by order of her Royal Highneſs, but the captain conſented that I ſhould have the entire direction as to the navigation and manœuvring the ſhip.

The witness was directed to withdraw.

William Carrington was again called in, by order of the House, and further examined by their lordships.

Lord Melville.—You ſtated to their lordſhips, when you were examined by the counſel who firſt examined you on Saturday laſt, that previouſly to having been in the ſervice of Sir William Gell, you had ſerved in the navy, and in the capacity of a midſhipman?—Yes, with Sir John Beresford.

You alſo ſtated, in a reply to a queſtion which was put to you, "Were you in any other ſhip in his Majeſty's ſervice than the Poictiers?" "No."—I underſtood that queſtion to apply to my having been with Sir John Beresford as midſhipman; I had been in other ſhips before.

Another queſtion was put to you, to which you gave this anſwer; you were aſked what ſituation you had ſerved in before you were on board the Poictiers as a midſhipman, to which you anſwered, you had been at ſea in the merchant ſervice when a boy, then you had been on land, and had got your livelihood in the beſt way you could?—I did; I underſtood the queſtion to allude to my being with Sir John Beresford; I was in other ſhips before that.

Is that laſt anſwer correct?—Yes.

Then the very next queſtion is as follows; "You are to be underſtood, that you were never in his Majeſty's ſervice before?" to which you anſwered "No."—I underſtood with Sir John Beresford; I underſtood it entirely alluded to Sir John Beresford during the time I was a midſhipman under him.

When you were aſked thoſe two queſtions as to having never been in any ſhip before the Poictiers, in his Majeſty's ſervice, and you anſwered "No;" that anſwer in point of fact was not correct?—No, it is not correct; I was in other ſhips before I was under Sir John Beresford.

State to their lordſhips in what ſituation you were immediately before you went to the Poictiers?—I was as quarter-maſter in the Majeſtic.

You ſerved on board the Majeſtic before the Poictiers?—Yes, I did.

Had you ever ſerved on board any other ſhips?—I ſerved in the Railleur before the Majeſtic, with the ſame captain, Captain Collard.

Have you ever ſerved in any ſhip beſides the Railleur, the Majeſtic, and the Poictiers?—I think I was a few months on board of a brig, but whether I was on her books I do not know; the firſt pay I received was on board the Railleur.

Have you ever ſerved in any other ſhip in his Majeſty's ſervice beſides thoſe you have mentioned?—Never.

Did you enter voluntarily, or were you preſſed?—I was preſſed.

Is the Houſe to underſtand, you ſerved as midſhipman in any of thoſe other ſhips?—No; I ſerved as quarter-maſter all the time I was on board the other ſhips, or gunner's-mate.

You ſtated, that you had been at ſea in the merchant ſervice when you were a boy, then you had been on land and got your livelihood in the beſt way you could; for what period were you on land?—I was bred and born

on the ſea-coaſt, I was ſometimes on land, ſometimes in boats, and ſometimes in a merchant veſſel, or a coaſting veſſel.

You were in the merchant ſervice when you were impreſſed?—I was in a boat when I was impreſſed.

A boat belonging to a merchant ſhip?—Belonging to a coaſting veſſel, or belonging to the ordnance ſervice.

How long had you been in the merchant ſervice?—I do not really recollect; I always got my living in that kind of way from a boy.

You have ſtated, that you had been at ſea in the merchant ſervice when you were a boy, and then you had been on land?—You may call it on land; I was at different parts on land, but always by the ſea-coaſt.

You were impreſſed from the merchant ſervice, into his Majeſty's ſervice?—Yes.

How do you reconcile that with what you have ſtated here, that you were in the merchant ſervice, and then on land, and got your livelihood in the beſt way you could?—The land conſiſted of fiſhing and piloting; in the harveſt time I ſometimes worked on land, and ſometimes on the ſea.

You have ſtated in reply to a queſtion in page 588 *(Ch. p. 239.)* "Why did you leave the navy?" that you did not like the ſea, and Sir John Beresford got you your diſcharge?—Yes.

You were asked, "You are perfectly clear in your own mind that you left his Majeſty's ſervice for no other reason than at your own requeſt?" to which you anſwered, "Nothing elſe"?—Yes.

How long had that diſlike to the ſea been upon you?—I had often been promiſed promotion, to get a gunner's warrant; but I never got it during the time I was in the Majeſtic: when I came into the Poictiers, I was alſo told that I ſhould have promotion; but I never got it till the latter part, when Sir John told me, I was to be upon the quarter-deck; I told him I did not wiſh to be on the quarter-deck, for I had no friends or money to ſupport me on the quarter-deck; that I would wiſh to leave the ſervice, if it could be got.

As far as you know of your own knowledge, it was at your requeſt only you were diſcharged, and not at the requeſt of any other perſon?—Not at the requeſt of any other perſon; at my requeſt, as far as I know.

You never heard that Sir William Gell had asked your diſcharge?—I ſaw Sir William Gell when he firſt came paſſenger on board the Poictiers, going to Lisbon; he came home paſſenger in the ſame ſhip; he ſaw me on the poop; he asked me many different queſtions reſpecting the ſhip, and alſo for a ſpy-glaſs to look at a ſhip in the convoy; it was not a very good one; he ſent me down to get his, which I did; and another circumſtance happened—I was ſtanding by the wheel at the gun, and he called me into his cabin, which was under the break of the poop, to put on the half port to prevent the water coming in: there were many other little things he asked me to do in the cabin, as he had no ſervant: when we drew near the land, he said, I am very much obliged to you for your attentions to me during the voyage; I cannot give you any money, but if there is any thing I can do to ſpeak to Sir John Beresford, I ſhall be very happy to do it; I ſaid, there is nothing you can do for me with Sir John Beresford but to ask him whether he can get my diſcharge, as I am not capable of appearing as a gentleman on the quarter-deck, which I underſtand I am to be, and I had rather leave it; he told me, you ought to conſider it well—what will you do when you get on ſhore? I told him that I would prefer any thing rather than ſtopping in the navy in that ſort of way; that I had no means of ſupporting myſelf as a gentleman. He ſaid, conſider you are now rated as an officer; I ſaid, I underſtand that, but I cannot ſupport it,

and therefore I had rather leave it: he ſaid, are you ſure that you had rather leave the navy, and that is the thing you would wiſh to be asked; I ſaid yes, that is it: he ſaid, I will ask you to-morrow morning, and you will conſider about it more, if you are ſure you had rather leave it than remain as a midſhipman on board: the next morning he asked me again, and I told him the ſame—that I had rather leave the navy; he mentioned it to Sir John, and Sir John ſaid yes, he certainly would do it, there was no difficulty. When we came to Portſmouth, we lay there ſome time; I heard no more of this for ſome time, till at laſt Lieutenant Alcock, the commanding officer of the ſhip, called me upon the quarter-deck, and ſaid, here is ſomething concerning your wanting your diſcharge from the navy —what is it you mean? I told him what I had ſaid to Sir William Gell concerning Sir John; he ſaid you muſt be mad to go to leave the navy now, now you have got what you have been looking for; I ſaid, it is true I have got it, but I have not the means of ſupporting it, and I had rather be diſcharged than remain as a midſhipman without any ſupport to appear like a gentleman as the others do: he ſaid, you muſt be mad, it cannot be ſo; I ſhall write to Sir John to ſay you have altered your mind, or ſomething to that purpoſe: I ſaid, pray do not do that, for that is my mind and my wiſh, and I ſhall write to Sir William Gell to ask Sir John to remember his promiſe, which he did. After that Sir William and Sir John met, and they thought it was ſomething very myſterious; Sir William ſaid we will prevent it; we will ſend a man down: there was a man ſent down to know whether it was my wiſh, as I had ſtated before, which it was: there was an acting captain ſent, Captain Jones I think it was, on board the Poictiers, who gave me a ticket of leave of abſence, told me I was to go to London to Sir John Beresford, and there to receive my orders, which I did. After I came to London, Sir John told me, you are in the ſame mind, that you wiſh to leave the navy; I ſaid yes, it is my wiſh; very well, he ſays: he ordered me to ſtay for a few days, and then, when I went to him again, he ſaid, you are to go down to the Thisbe, and ask for your papers, and then come to me again: I went to him: I believe he ſent a letter, whether he ſent the letter by me or by the poſt I am not certain, to the commanding officer. I went to the Thisbe; they told me there were no papers there for me, and they knew nothing of my name at the preſent: I went back to Sir John; he told me, it is of no conſequence, you remain as you are, and go where you like; if you chooſe to go into ſervice or any where, nobody will trouble you; if they do, you will apply to me, and I will give them an anſwer. After which he gave me a written certificate by his own hand. After I had been abroad two years or better with Sir William Gell, I ſaw Sir John Beresford again; I told him I had not received the laſt pay I had due from the Poictiers; he ſays, that is very odd, I will give you a letter to a gentleman in Somerſet Houſe, and you will go and receive your pay, which I did; and I have never been asked any queſtions about the navy ſince, till I came before your lordſhips.

After having made the ſtatement you have made to the Houſe, do you ſtill adhere to your former anſwer, that as far as you know, no other perſon had asked your diſcharge?—No other perſon to my knowledge.

Are the Houſe to underſtand that Sir William Gell did or did not ask your diſcharge of Sir John Beresford?—He told me he would ask Sir John any thing that I wiſhed to have done for me; I told Sir William Gell that that was the thing I wanted.

Are you acquainted with Sir William Gell's handwriting?—Yes, I think I am.

Did you ever ſee him write?—Yes.

Do you think you ſhould know it?—I think I ſhould.

Is that Sir William Gell's handwriting (a letter being ſhown to the witneſs)?—I think it is his handwriting, I am not certain.

Do you believe it to be his handwriting?—I cannot ſay, Sir William writes different hands; I think it is his handwriting, but I am not certain.

You are underſtood to ſtate, that you did not, in point of fact, get a regular diſcharge?—I had nothing further than that given me by Sir John Beresford.

Was that the paper?—Yes, one written by his own hand, and a printed paper.

The Marquis of Buckingham.—You were asked whether you had ſerved in any other ſhip in his Majeſty's ſervice than the Poictiers, to which you anſwered No.

The witness was directed to withdraw, and was again called in.

The Duke of Clarence.—You have ſaid that you had never been in any other ſhip in his Majeſty's ſervice than the Poictiers?—I underſtood with Sir John Beresford.

You ſtated you were in the Railleur and the Majeſtic, were you turned over from the Railleur into the Majeſtic?—I was.

Did you do duty as midſhipman immediately on joining the Poictiers?—No, as quarter-maſter.

Did you not ſtate that you did duty from the beginning on the quarter-deck?—No, that I was led to expect promotion.

Mr. Brougham said, that the witness had already, and most satisfactorily, answered the questions put by his Royal Highness the Duke of Clarence, and referred to that part of the printed minutes of the evidence in which he had done so.

The Duke of Clarence.—I do not see it, I am very blind, and cannot see without my glasses. (His Royal Highness now declared himself perfectly satisfied.)—I am very much obliged to the noble and learned lord for puting me right when I am out of order, and so am I to the counsel for her Majesty whenever I propose any improper question, and they object to it; and I feel it due to state, that no man breathing can admire more than I do, the abilities of the learned counsel.

The Marquis of Lansdowne.—When you ſtated that you were perfectly clear in your own mind, that you left his Majeſty's ſervice for no other reaſon than your own requeſt; did you mean that you conſidered the requeſt which appears to have been made by Sir William Gell, to have been made by your authority?—By my authority or by my wiſh.

Lord Colville.—Upon your laſt examination you were asked, are you poſitively ſure that from the time you joined the Poictiers you were rated midſhipman?—I ſaid I did not know I was, I was midſhipman when I left it, as I ſaw in my ticket.

It appears by the minutes, that the anſwer you gave to that queſtion was, I am not certain, whether I was rated at that time or not, I was

: time I left it, which I saw upon my ticket, state what ticket
lluded to?—To the ticket of leave of absence, and to Sir John
s certificate which he gave me under his own hand.
not allude to a pay-ticket?—No.
rtificate?—Yes.
ve stated you received your pay at the pay-office, at a subsequent
I did.
ou paid by any voucher produced by yourself?—Sir John gave
to a gentleman in Somerset House, this gentleman sent a porter
he different places where I was to go, and I received my pay.
mean to say you do not know on what voucher you were paid?
o papers, I never saw any papers after I left the Poictiers.
Hampden.—Did you ever act as midshipman on board?—I
t regularly watch, for I had no clothes nor no money to appear
man on the quarter-deck.
uty did you do?—As quarter-master, until I was told, I was
e quarter-deck, and I remained some time, and did no duty, as
lothes.
u stand in any immediate relation to Sir John Beresford, the
r of the ship?—I am no relation certainly.
nal attendance?—None.
re not his servant?—Never.
ve said, that when you were in the merchant service you some-
your living on the water, and sometimes on the land, either by
boats, or working, or piloting?—Yes.
mouth.—Where were you born?—I was born in St. Oswyth,
nester in Essex.
m Colchester you mean, you got your living in a fishing boat,
n a coasting vessel sometimes?—Yes; from St. Oswyth, near

at port your usual residence, until the time you were impressed
ajesty's service?—It was.
lenborough.—When you were last examined, you were asked
ion you had served in before you were on board the Poictiers
ipman, your answer was, I have been at sea in the merchant
en I was a boy; then I lived on land, and got my livelihood in
ay I could. The next question is this, You are to be under-
you were never in his Majesty's service before; to which the
No. Are you to be understood that you now swear that you
that second question immediately following the first, which has
ead, to refer not to your service generally on board his Majesty's
to your service in a ship with Sir John Beresford?—I understood
: entirely to Sir John Beresford, and to my service as a midship-
oard the Poictiers.

ollowing question was put by the *Lord-Chancel-*
e request of *Mr. Brougham*:—

ou ever dismissed from any of his Majesty's ships in which you
misconduct?—No, never.
ou ever charged with any misconduct in any of those ships?—

ver were punished for any misconduct?—Never.
u any quarrel with any of the officers, or any persons on board
hat you wished to conceal?—Never.
u, in point of fact, any thing to conceal in any one of those
hich you had the honour of serving?—Not one.

Have you always given ſatisfaction to all the officers under whom you have ſerved?—Yes; which Sir John Beresford will ſtate.

Have you always received certificates of your good conduct from the different officers on your leaving thoſe different veſſels?—Yes; I have been always recommended in the beſt manner, on my leaving thoſe veſſels, from the one to the other.

Have you thoſe certificates with you?—I have not.

The witness was directed to withdraw.

Mr. Brougham requested permission to put to the witness a question which had been accidentally omitted on his former examination; and he would state to their lordships the reason which led him to ask this indulgence. In consequence of the interruption occasioned by the discussion which had taken place on a preceding question, his learned friend (Dr. Lushington), who was examining the witness, had accidentally turned over that page of his brief at the bottom of which this question stood. The question would be found not only in his learned friend's brief, but in all the other five briefs; and he and his learned friends were ready to pledge their honour to the House that it was not a new point which had been suggested since the former examination of the witness. All he wished to ask the witness was, whether or not he knew, of his own knowledge, that, before the Princess of Wales arrived at Naples, William Austin slept in a separate apartment from that of her Royal Highness, the witness having made William Austin's bed?

Dr. Lushington begged to state to their lordships how this omission had occurred. At the conclusion of the questions, in his brief, stood this one; and preceding it was the business about Majochi and Ompteda, which, their lordships would recollect, had given rise to a great deal of discussion. He had not forgot, in consequence of that discussion, that another question remained to be put; but, at the moment when he was about to refer to it, a different question was handed to him on a slip of paper, and that put the other out of his mind.

The Lord-Chancellor said it was customary to allow a counsel to put a question in such case, when he stated his readiness to pledge his word of honour that he had intended to put it on the examination-in-chief.

Dr. Lushington added, on his word of honour, that the question was accidentally omitted by him when the witness was formerly examined.

The witness was then recalled, and examined by *Dr. Lushington*, through the *Lord-Chancellor*.

Engraved by H. Page

LIEUTENANT HANNAM.

English Secretary to Her Majesty on the Contin

Upon the journey to Naples did you ever make any beds?—I have assisted in making them.

Have you ever made the bed of William Austin?—I have assisted in making the bed of William Austin.

Was that bed made in her Royal Highness's bed-room, or in another?—Sometimes it was, sometimes it was not; where there was room enough, it was not; where there was not, it was.

The following question was put at the request of the *Attorney-General.*

Can you undertake to say you made William Austin's bed out of the room of her Royal Highness the Princess more than once, or only once, in the journey to Naples?—I made it more than once or twice; I do not recollect how many times.

Do you recollect the places where you so made the bed?—I think the first time I made it was at Domodosola, I think, but I am not certain.

Where besides?—I do not recollect exactly the places' names, it was on our way through Italy.

The Earl of Lauderdale.—When you made William Austin's bed, was it a single bed in the room, or was there another bed in that room?—There was generally beds belonging to the house in that room; but this was one bed, his travelling bed.

There was another bed belonging to the house in that room?—Yes.

Was that made up at that time?—No, I do not think it was.

In that room you only made up William Austin's travelling bed, and the bed in the room was left unmade that night?—It was left there; I do not know whether it was made or not; I never saw it made any use of.

The witness was directed to withdraw.

And LIEUTENANT JOSEPH HOWNAM, of the Royal Navy, was called in, and having been sworn, was examined by *Mr. Tindal.*

Are you a lieutenant in his Majesty's Royal Navy?—I am.

How long have you been a lieutenant?—Since the early part of the year 1809.

Where do you live at present, where are you settled?—At Rouen, in France.

Are you married and settled there with your family?—I am.

Did you at any time join the party of her Royal Highness the Princess of Wales?—I did.

When was it you so joined her?—In the month of April 1815.

Where was her Royal Highness at that time?—At Genoa.

How long did she remain at Genoa after you had joined her?—About six weeks.

Do you remember at any time while you were at Genoa, any disturbance happening in the course of any night?—I do.

What was the nature of that disturbance?—It was supposed that the house was broken into.

Was there any general alarm made in the night-time?—There was.

Did you get up in consequence?—I did.

Where did you go to?—I went into the great hall.

Who was the first person you saw upon that occasion?—The first person I saw was Bergami, who came into my room.

Did he give you the alarm?—He did.

Had he any thing in his hand at the time?—He had a candle, and, I think, a sword.

Did you after the alarm so given, go down?—I was on the ground-floor, my door opened into the hall.

You went into the hall?—Yes.

Whom did you find assembled in the hall when you got there?—I found the Princess, and many of the servants.

During the time you were at Genoa, did you ever breakfast with her Royal Highness?—Never.

Have you ever seen her at breakfast?—I have.

At the time you saw her at breakfast, was Bergami breakfasting with her?—He was not.

Did you ever know him breakfast with her at Genoa?—Never.

Were you in the habit of dining with her Royal Highness whilst at Genoa?—Every day.

Did Bergami dine at her Royal Highness's table any day whilst at Genoa?—Never.

Do you recollect at this moment at what place it was that Bergami first began to dine at the table of her Royal Highness?—I do not recollect the name of the town, but it was in a journey over the St. Gothard.

Do you recollect the date of that journey?—It was in the month of August.

Do you mean the month of August in the same year?—1815.

You say, the first time of the dining was on the journey, did Bergami continue to dine regularly from that time, or did he begin to dine regularly at a subsequent time?—He did not dine regularly after that; he began some time after that.

What was the place of residence of her Royal Highness at the time he so began?—The Villa d'Este.

Do you recollect to what place her Royal Highness went after she left Genoa?—To Milan.

Do you remember when her Royal Highness resided in a house called the Casa Boromeo?—I do.

Do you remember a staircase in that house, upon the landing-place of which her Royal Highness's door of her sleeping-apartment opened?—I do.

Was that staircase a secret staircase, or did it lead up to other apartments?—It was not a secret staircase, it led up to my apartment.

Do you mean the apartment in which you slept?—I do.

Were there any other persons who went up that staircase to their sleeping-apartments?—There was a door that went to the chambers of the servants, of the lower servants.

Do you know whether that staircase was ever used by those servants in going to their sleeping-apartments?—I do not recollect having seen them going up it.

Was it a staircase you were in the habit of using when you went to yours?—It was.

Where did you go to after you left Milan?—To Venice.

Upon a little tour?—Yes.

About what time was it when her Royal Highness took up her residence at the Villa d'Este?—I think about the latter end of September.

Do you recollect the position of her Royal Highness's room, and of Bergami's room, at the Villa d'Este?—I recollect where her Royal Highness slept; I cannot say where Bergami slept at that time.

Were there any stairs near the door of her Royal Highness's sleeping-apartment?—There was a flight of stairs.

Was there a door at the top of those stairs?—I cannot say.

Do you recollect, upon the long voyage, being at Tunis?—I do.

Did you accompany her Royal Highness during the whole of the long voyage?—I did.

Do you recollect where Bergami slept at Tunis?—I recollect his pointing me out his room.

Did you see him in the room?—He pointed out the room himself.

Did you see him in the room, using it as his own, at the time?—Yes.

Was that room in which you so saw him near the room of her Royal Highness?—No, it was not.

Describe, if you please, the different situations of the two rooms?—Bergami's room was the only room up a flight of stairs that any person in the house occupied, I believe I never saw any body else's room there.

Whereabout was her Royal Highness's room?—There were several rooms between the flight of stairs and her Royal Highness's room, that is to say, there were three or four rooms to pass.

Was Bergami's room on the same story with that of her Royal Highness?—No, it was not; it was up stairs.

Was her Royal Highness's room on the ground-floor?—We did not occupy the ground-floor.

On which floor was her Royal Highness's room?—On the same floor as all the household.

Do you remember, whilst at Tunis, taking a short journey to Utica?—I do.

Did you sleep at Utica?—We did not.

Where did the parties sleep on the night of the day when the visit was made to Utica?—At the palace of the younger prince, the house is called Sabella.

Were you on board the polacca during the voyage?—I was.

Be so good as to describe whether there was any separation between that part of the vessel which was occupied by the captain and the crew, and that part which belonged to her Royal Highness and her suite?—It was quite distinct, it was separated by a bulkhead.

Had the captain of that vessel any duty to perform, which carried him into the part of the vessel occupied by her Royal Highness?—None whatever.

Do you know in what part of the vessel the water-closet appropriated to the use of the women was?—I think there were two, one in the cabin of the Princess, and the other in the cabin of the Countess Oldi.

Had the captain any duty to perform that would take him into the part of the vessel where those were?—None whatever, as I imagine.

Did you ever see the captain, during the time you were on board, in that part of the vessel?—Never.

Do you recollect landing at or near to Ephesus?—I do.

What was the name of the place where her Royal Highness and her suite slept on the night of your landing?—We slept on the plains of Ephesus.

In what manner, what erections were made, or what convenience

was there to enable the party to sleep there?—Under the shed of a Caffa Turk; a miserable house.

Did her Royal Highness sleep under this shed?—She did.

How was the shed constructed?—Whether it was by planks, or by boughs, I am not quite certain.

Was it enclosed on each side, or open in any way?—Open.

Where did the suite of her Royal Highness sleep?—All round her.

Did you sleep near her Royal Highness, amongst the rest of the suite?—I did.

Do you remember where her Royal Highness dined on that day?—On the day of her arrival?

Either that or the next day?—It was in the churchyard next the coffee house, where we had slept the night before.

What did she dine under, what was there above her?—The portico of an old mosque.

Did she dine alone upon that occasion?—I am convinced we all dined together.

Do you mean that you recollect you then dined together?—I recollect most perfectly.

How did you contrive to sit upon that occasion?—We sat on the ground, her Royal Highness sat on her travelling bed.

Did any body sit with her on that travelling bed?—I do not remember.

Are you sure that the rest of the suite, or a part of the rest of the suite of her Royal Highness, were there during the time of dinner?—I am confident as to having dined myself, and every body else.

Do you recollect where the Countess Oldi sat upon that occasion?—I cannot recollect the spot where she sat; I am convinced we all dined together.

Where did you afterwards re-embark?—At Scala Nuova.

To what place did you sail?—To St. Jean d'Acre.

Were you either after that or before it at Constantinople?—Before that.

How long did you remain at Constantinople?—I should think about twelve or fourteen days, or more.

In whose house did her Royal Highness reside during that time?—In the palace of the British minister; we were not all the time at Constantinople.

As long as her Royal Highness was there?—In the palace of the British minister, we were only about five or six days.

What was the name of the British minister?—Mr. Frere.

Do you know whether he is alive?—I have never heard of his death.

Did you afterwards, in the course of the voyage, land at St. Jean d'Acre?—We did.

In what manner did her Royal Highness travel from St. Jean d'Acre to Jerusalem?—Upon an ass.

Is that the usual way of travelling in that part of the world?—On asses or mules, or in a palanquin.

How did you travel yourself?—On a horse.

Was the course of your travelling to proceed by night, and to lie by by day?—It was.

In what manner did her Royal Highness rest during the day?—Under a tent.

Did you observe whether her Royal Highness, before she lay by by day, *appeared* fatigued or not?—Excessively so.

Did that appear the case during the whole of the journey from St. Jean d'Acre to Jerusalem?—Yes.

Did you make any particular observation, as to the nature of this fatigue?—I have seen the Princess fall from the ass more than once.

Do you mean about the latter part of the night?—Towards the morning.

Do you remember whether on your voyage to St. Jean d'Acre there was any tent on deck?—Yes there was.

On the outward voyage was this tent constantly erected on deck, or was it only occasionally there?—It was occasionally there from the sun or from the wind, while the Princess sat upon deck; in fact it was the awning of the ship.

You re-embarked at Jaffa at your return?—We did.

Was the weather at that time hot, or otherwise?—Excessively hot, it was the month of July.

Had you any cattle on board the vessel of any kind?—We had.

What did they consist of?—Horses and asses.

Had you more on board on your return than you had on your voyage out?—We had none in going out.

In what part of the vessel were those animals kept?—In the hold.

Did they make any noise in the course of the night or the day?—The general noise of horses and such animals.

Was there any smell occasioned by the animals being put in the hold?—Yes there was, certainly.

Where did her Royal Highness sleep on the voyage from Jaffa homewards?—Under the tent, on deck.

By whose direction was the tent put up?—By direction of the Princess.

Did it remain permanently on the deck from the time of your quitting Jaffa to the end of the voyage?—It did.

Do you recollect, at any time, any complaint made by her Royal Highness as to the rate of the vessel's sailing?—Yes, I do.

What was the complaint?—It was on the return from the island of Rhodes to Syracuse; the voyage became excessively tedious, and the Princess, naturally anxious to get on shore, attributed it to the want of sailing of the vessel; I stated, that she could not be supposed to sail so well with a tent on deck; her Royal Highness said, as to the tent, I do not care at all about it, I would as soon sleep without it.

What was the occasion of her Royal Highness sleeping under the tent during the return voyage?—In consequence of the excessive heat, and the animals on board.

Do you remember any circumstance relating to a light being kept under the tent?—I do.

What was it?—The Princess, in the previous part of her journey, used to sit on deck to a late hour, and with this light; on leaving Jaffa, from reports that were in circulation of some Tunisian vessels roving the Archipelagan seas, it was by a statement by me to the Princess that that light should not be kept on deck all night, as it would serve as a mark to any vessel that might be cruising in those seas.

Had you, in point of fact, seen any Tunisian vessels yourself?—Yes, we had seen one at Scio, and another at St. Jean d'Acre.

Do you know of your own knowledge whether they had plundered any vessel?—I could not know, but from report.

Did you, *in the situation* you held, think it a matter of duty to give *that advice to her Royal Highness*?—I did.

In consequence of that advice, was the light put out earlier than before?—Much earlier.

What was the general time of the evening at which the light was put out?—It might be from nine till ten o'clock, or later.

How many sofas were there on board the polacca?—Four.

Do you know in what part of the ship those sofas were placed?—There were two lashed together in the Princess's cabin, and two in the Countess's cabin.

Was there afterwards any alteration made in their situation?—The countess sent one out of her cabin.

Where was it sent to?—It was occasionally on deck of the first part of the voyage, and also after Jaffa.

Do you mean that the sofa was beneath the tent?—The Princess slept on it.

What was there, besides the sofa you have mentioned, underneath this tent?—An English travelling bed.

Do you know whether there was any communication open between the tent and the part of the vessel below?—There was a ladder that went down into the dining-room.

On the motion of *Earl Grey* the House adjourned at 4 o'clock.

EIGHTH DAY.—October 11.

After the usual forms a conversation arose about the heat of the House.

The Lord-Chancellor said he was, for his part, most desirous that the windows should be kept open to ventilate the House. In the course of yesterday he directed the windows to be opened, but it appeared that the officer had no sooner executed that order than they were shut by *somebody*. He wished to know whether it was their lordships' pleasure to keep open the windows or not; because, if it were desired that they should be open, he would station one of the officers of the House in the gallery, to take care that this unknown *somebody* should not close them.

Counsel being called in.

Lieutenant Joseph Robert Hownam was again called in, and further examined by *Mr. Tindal*.

You were asked yesterday about the communication between the tent and the part of the vessel below the deck, was that communication open by night as well as by day?—The ladder stood constantly there.

Have you had any opportunity of knowing, by going there by night, whether it was open or not?—I have.

State upon what occasions that happened?—I have in an evening, not knowing that her Royal Highness had retired, run up that ladder to go on deck, and did not find the tent was closed till I got up.

Was the light out upon that occasion?—I imagine it was, I do not recollect to a certainty.

Was the tent of which we are speaking a single tent or a double tent?—*It was the* awning of the ship.

hat imply that it was single?—It was single with the exception

of another piece, put round it to make it complete probably, but the pieces having been put I do not recollect.

The queſtion is, whether there was one tent or whether there were two, one exterior of the other?—One only.

Have you any means of knowing whether the opening by which the tent was accessible on the outſide was cloſed or not, ſo that it could be opened or not by a perſon on the outſide?—On board the veſſel, I imagine that it could be opened from the outſide, certainly.

What was the nature of the opening, deſcribe it if you pleaſe?—As all tents are cloſed, the two parts of the canvas brought together, not ſewed or any thing of that ſort.

Then is the mode by which a perſon on the outſide who wanted to go in, would do ſo, ſimply that of drawing back a part of the tent?—I ſhould think ſo.

How near was that tent placed to the ſteersman?—It came cloſe aft to the mizen-maſt.

Can you state, not preciſely, but within about what diſtance that would come of the ſteersman?—I ſuppoſe four, or five, or ſix feet.

Were there any part of the crew who were up during the night?—The watch, one half the veſſel's crew kept watch by night.

Was there a paſſage by the ſide of this tent from the afterpart of the ſhip to the forepart of the ſhip?—The tent occupied the whole of one ſide of the veſſel, the other ſide there was a clear paſſage.

Did the duty of the crew, in the ordinary management of the veſſel, carry them at any times from one end of the ſhip to the other?—Conſtantly.

You have ſtated that beneath this tent there was a ſofa and a travelling bed?—Yes.

Do you know upon which of them her Royal Highneſs repoſed during the night?—On the ſofa, I think.

Do you know who repoſed during the night in the travelling bed?—I do not know, for I never was in the tent after night.

Do you know whether her Royal Highneſs repoſed under that tent alone during the night?—I do not know, because I have not ſeen it.

Do you recollect, during the journey by land from St. Jean D'Acre to Jeruſalem, whether her Royal Highneſs, during the time ſhe repoſed, was dreſſed or undreſſed?—I never ſaw her undreſſed.

Have you any reaſon to know whether ſhe was one or the other?—I have never ſeen her during the day whilſt ſhe was repoſing, conſequently I have not ſeen her undreſſed.

Have you ever happened to go in immediately previous to your reſuming your journey?—We always dined under her Royal Highneſs's tent previously to our departure.

Are you to be underſtood to ſay you do not know whether her Royal Highneſs was dreſſed or undreſſed during the times of lying by?—I do not believe ſhe ever was undreſſed during that journey.

State the grounds of the belief you have framed?—I never ſaw any bed-clothes on the ſofa that was placed in the tent.

This was with reſpect to the journey by land; as to the tent on board the ſhip, do you know whether her Royal Highneſs was dreſſed or undreſſed whilſt under the tent?—I never ſaw any bed-clothes on the ſofa.

Do you recollect, upon any occaſion, an accident happening one night, by a ſea breaking into the tent?—I do.

Be ſo good as to deſcribe the nature of that accident, and what you obſerved?—*It was on the* coaſt of Caramania, in a ſquall the ſea broke over

the quarter of the veſſel, and her Royal Highneſs came down below to ſleep.

Was the accident of that nature to call you up immediately?—It was.

Did your ſee her Royal Highneſs at the moment of her coming down?—I did.

Upon that occaſion was her Royal Highneſs dreſſed or not?—She was dreſſed.

Did you at that moment obſerve any body with her?—The perſons handing her down.

Who were the perſons or perſon handing her down?—I think it was Bergami, and Mr. Flinn I think.

Was Bergami at that time dreſſed or undreſſed?—H was dreſſed.

Do you recollect during the voyage a bath at any time being taken by her Royal Highneſs?—I recollect that her Royal Highneſs did take baths on the paſſage home.

When the bath was taken, what was the deſcription of the tub, or the implement uſed for a bath?—It was a common bathing tub, made at Auguſta by my directions.

Without asking you as to the preciſe ſize of it, was it of ſuch a ſize that it could or could not be put into her Royal Highneſs's cabin when her bed was there?—I do not think it possible.

During the time you were on board this veſſel, did you ever see her Royal Highneſs ſitting upon a gun with Bergami?—I never ſaw that.

Did you ever ſee her ſitting on a bench, either with her arms round him, or his round her?—Never.

Did you ever ſee the one kissing the other?—Never.

Did you ever perceive any impropriety or indecency of behaviour of the one towards the other, while you were on board the veſſel?—Never.

Did your duty carry you frequently upon the deck?—It did; the management of the ſhip was chiefly in the hands of Mr. Flinn.

In point of fact, were you generally on deck or not during the day?—I was.

Do you recollect, at any time, Bergami dressing himſelf up in any particular way on board with pillows?—I do.

Be ſo good as to ſtate the occaſion of that circumſtance?—It was in derision of the Engliſh conſul at Jaffa, who came on board in long Greek robes, with a gold-laced cocked hat and a gold-headed cane.

Was he a pompous figure, this conſul?—He was.

Do you remember a perſon of the name of Mahomet, who was on board on your return voyage?—I do.

Do you remember a dance performed by Mahomet?—I do.

Can you remember the occaſion upon which that dance was called for?—It originated in a ſort of quarrel that this Arab had with the docter; he being ſick on board, the doctor wanted to give him ſome phyſic, he would not take it, and afterwards he uſed to laugh at the doctor, and ridicule him by this dance.

Was the doctor angry with him for not taking his phyſic?—The doctor abuſing him for not taking the phyſic was the cauſe of the quarrel or difference.

When the doctor appeared on deck was Mahomet ſometimes called for?—By one or the other of the ſuite pointing to the doctor, and ſaying, "Mahomet, dema, dema," upon which he performed this dance.

The Attorney-General objected to hearing what was *done by* others.

Mr. Brougham said the witness was stating a fact, and all that accompanied a fact was evidence.

Have you any notion of any thing indecent or improper in this dance?—Not the least, more than the Spanish bolero, or the Negro dance.

Have you ever seen Mahomet performing the same dance on shore?—I have, frequently.

Was the dance which you saw him perform on shore the same which you have described that he performed on shipboard?—Precisely.

You have landed at Terracina after the long voyage?—No, at Cape d'Anza.

Before you arrived at Cape d'Anza, did any one land at Terracina?—There did.

Who was the person, or who were the persons, that landed at Terracina?—Bergami, Camera, and, I think, Teodoro Majochi.

Was the vessel bound to perform quarantine?—We were not in port; we were then at sea.

Would the vessel, at the time of your landing, have been bound to perform quarantine?—We had already performed quarantine at Syracuse and Messina, and, in all probability, we should have had to finish a long quarantine at any port we should have gone to, our quarantine not being out from Messina.

What was the reason of the persons whom you have mentioned being landed at Terracina?—To obtain pratique in consequence of her Royal Highness being so excessively fatigued, and being on board so long.

In point of fact, was her Royal Highness in a state of fatigue and exhaustion at the time?—Very much so indeed.

Do you recollect, at the time those persons put off in the boat, who were on the deck of the vessel?—Her Royal Highness and every body.

In what manner did those persons take leave of her Royal Highness?—By kissing her Royal Highnesses's hand in a respectful manner.

Did each of the three persons you have mentioned kiss the hand of her Royal Highness?—I think they did.

Did Bergami, or did he or did he not kiss her Royal Highness upon that occasion?—Kiss her face? No, certainly not.

After the long voyage, as it is called, her Royal Highness went back to the Villa d'Este?—She did.

Did she, during her stay at the Villa d'Este, go to the Barona?—After staying some time at the Villa d'Este she went to the Barona.

What is the size of this House that is called the Barona, is it a large house or a moderately sized house?—No, it was a small country house fitted up for the purpose.

Was it a house in which any large fête could be given?—Oh no.

What was the nature of the entertainments given by her Royal Highness at Barona?—There were no entertainments, except to the farmer's daughters, to amuse, in fact, the household.

Was the time of which you are speaking, carnival time?—It was.

Did you ever see at those entertainments the wives of persons, as well as their daughters?—The eldest of the daughters was married; I do not recollect if any more were married, but I recollect one was married.

The question does not refer to any particular family; but did the persons who attended at those entertainments bring their wives as well as their daughters?—I have seen the wife of the Chevalier Tamasia and his daughters, the wife of professor Mocatti, and the wife of Baron Cavaletti.

Who was the Chevalier Tamasia?—He had been prefect of Como for some years.

Were the other persons whom you have named persons who resided in the neighbourhood?—Yes, they were, with the exception of the Professor Mocatti, who was at Como.

Do you recollect whether the clergyman of the place was there, or not?—I have seen him frequently; at the dance I cannot say.

Do you mean that you have seen him frequently visiting her Royal Highness?—Frequently.

Could you mention whether, at the dance described, her Royal Highness was constantly in the dancing-room, or in what manner she was situated?—She was not constantly in the dancing-room, she chiefly remained in an adjoining room; she came in occasionally.

Did you yourself partake at those dances?—Always.

Did her Royal Highness retire for the evening, or not, before the dances were finished?—Chiefly.

Whilst you have been at those dances, have you perceived any thing either indecent or indecorous in the parties there?—I have not.

Do you recollect a river that is called the Brescia, near the Villa d'Este?—Yes, I do.

Of what nature is that river; describe it if you please?—It is a sort of torrent, rather than a river.

Is it ever dry, or with little water in it?—Certainly, with little water in it. I do not recollect ever to have seen it quite dry; when it rains, it runs with amazing rapidity.

Is it a place that people would choose to bathe in?—I should think not.

Do you recollect accompanying her Royal Highness upon the tour into Germany?—I do.

In about what part of the year did that take place?—The early part of the year; I should think about March.

That was March 1817?—Yes, March 1817.

Do you recollect being at Carlsruhe?—I do.

Who received her Royal Highness at Carlsruhe?—There was a grand chamberlain received her Royal Highness on getting out of her carriage, and a chamberlain appointed to attend her always after.

Do you remember the name of that gentleman?—The Baron d'Ende.

Did her Royal Highness pass the greater part of her time at court, or in retirement, whilst she was there?—Almost always at court, or in the family of the Grand Duke.

Where did her Royal Highness usually dine, during her stay at Carlsruhe?—At the court, or else at the Margravine's the Grand Duke's mother.

Did her Royal Highness usually sup out?—Mostly.

Where was the supper given?—At the Grand Duke's; and I think once at the Margravine's.

Were there any parties assembled on those occasions to meet her Royal Highness?—Always, except the first day's dinner at the Margravine's.

Was it on your way back from Carlsruhe that you were stopped at Scharnitz?—If that is the name of the barrier town between the Austrian Tyrol and the kingdom of Bavaria, we were stopped once there.

Do you remember the time of day when you got into this place?—I think it was about the middle of the day.

What occasioned your being stopped there?—We were travelling in sledges, in consequence of the depth of the snow, and the carriages were behind; the man at the barrier not having a passport, would not take the word of the courier, or ourselves in fact, that it was the Princess of Wales, and he stopped us from passing.

Did that make it necessary for any person to go back to Inspruck?—Mr. Bergami went back immediately to Inspruck with Captain Vassali, I think, to procure passports.

Do you recollect at what time Bergami and Captain Vassali, returned back to Scharnitz?—I should think it was about one or two o'clock in the morning, it was very late.

Was that on your road to Vienna?—It was in the road to Munich going to Vienna.

Did you afterwards, on your return from Vienna, pass through Trieste and Venice?—We did.

Do you remember her arriving at Trieste?—I do.

About what part of the day was it?—The middle of the day, about noon I should think.

Did any one receive her Royal Highness upon her arrival at Trieste?—The governor was sick in bed, and I think it was the vice-governor who received the Princess, at least that came to the inn after she arrived.

Do you remember the name of that nobleman or gentleman?—I do not.

In what manner did her Royal Highness pass that evening?—We went to the opera.

When did you leave Trieste?—The following day, about five or six o'clock in the evening.

Do you recollect that distinctly?—I positively recollect it.

Have you any particular reason for your distinct recollection of this fact?—I have.

What is that reason?—I have a letter that I wrote at the time from Venice on our arrival at that place; it is dated on the 18th of April, in the morning.

Have you got the letter in your pocket?—I have. (The witness produced a letter.)

Is it a letter written to the lady whom you have since married?—It is.

Was that letter sent from Venice?—It was not only sent from Venice but it was chargé at the post-office.

Has it the Venice post mark upon it?—It has.

Is there any passage in that letter by looking at which you are certain you arrived at Trieste?—Certainly, it is dated the 18th from Venice.

Can you by looking at that letter state the day on which you arrived at Trieste?—We arrived at Trieste on the 15th.

Is it a journey of one day or more days between Trieste and Venice?—It was a good journey of twenty-four hours post.

Did it occupy you about that time to perform the journey?—On the night of leaving Trieste, we stopped some time at a small village in consequence of something happening to one of the carriages, and the sea breaking over *the road*; in fact it was bad weather.

Do you happen to remember the name of that village?—I do not recollect the name of it.

Was it called Monte Falconi?—I cannot say; it was after descending the high hills about Trieste.

Do you remember a gentlemen of the name of the Baron Ompteda?—I do.

Was he in the habit of visiting at her Royal Highness's house?—Constantly.

Do you recollect his visiting at Genoa?—I do.

Did he dine there, or only call there?—He dined there.

At that time was Theodore Majochi in the service of her Royal Highness?—He was.

Was it his duty to wait at dinner at that time?—It was; he was a footman.

Did you see the Baron Ompteda again at Milan, or where?—At Milan, and at Como also.

On those occasions was he visiting at her Royal Highness's?—Yes.

Did he dine at either of the times you have last mentioned?—Yes.

Do you remember his coming to the Villa Villani?—I do.

How long did he stay there?—Sometimes he stopped over night; I am not quite sure whether one or two days; but I am certain that he stopped over night.

Do you know whether there was a room in the house that was called in the family Baron Ompteda's room?—Yes, he always occupied the room appointed for him.

At the times last examined to, was Theodore Majochi still a servant?—Still a servant in the house.

Have you ever yourself conversed with Majochi upon the subject of Baron Ompteda?—I have never spoken to Theodore Majochi except upon our arrival at Rome, some time after Baron Ompteda had been at Como.

In the course of that conversation did you mention the name of Baron Ompteda?—I did.

In the course of the different journies you have made with her Royal Highness, was it customary or not to be shewn into rooms of entertainment where beds were standing?—Very frequently.

Was it a thing at all uncommon to be shewn into a room of that description?—Not at all.

Do you recollect her Royal Highness giving you any directions as to Ompteda?—I do.

Or making any representations to you on the subject of Ompteda?—Yes.

What were the directions her Royal Highness gave to you?—

The Attorney-General submitted to their lordships that this was not a question which could be regarded as material in any point of view: it was impossible to judge as to where the examination would stop if such questions were put to the witness. Undoubtedly every question was admissible that referred to the conduct of her Royal Highness; but any particular inquiry as to directions that she might have given on some particular occasion did not seem to partake of that materiality.

Mr. Tindal contended that the question was admissible

as preliminary to evidence of a more distinct sort, as perhaps essential to the confirmation of some fact that might subsequently appear.

The Lord-Chancellor said that the regular course would be, first, to ask the witness whether he did such and such a thing, and then whether he did it by her Royal Highness's directions.

The witness was again called in.

In consequence of any directions from her Royal Highness, did you do any thing, or take any step with respect to Baron Ompteda?—I did; it was not a direction, it was a representation.

What did you do?—I called him out.

Did you, at any other time, do any thing at Rome with respect to Baron Ompteda?—I did.

The counsel were directed to ask what he did, and then to ask the directions under which he did it.

What was it you did?—I told the servants of the house they were not to molest or to take any notice of Baron Ompteda, should they meet him.

Was Majochi one of the servants?—I am most positive he was one.

Do you recollect upon any occasion her Royal Highness visiting any of her servants when ill in bed?—Frequently.

Do you recollect in particular her visting a servant of the name of Camera?—I do, at Jerusalem.

What was the nature of his complaint, or supposed complaint?—We imagined it even to be the plague; it was very severe.

Was that stated to her Royal Highness before she visited him?—That I cannot say; but he was excessively ill.

Did she, in point of fact, visit him?—I was not present in his room, to my recollection.

Do you recollect her visiting any other persons of her suite?—I do.

Upon the various occasions you have seen her Royal Highness, was she received at the different courts where you visited by persons of the first distinction or not?—All except Vienna.

Who was the ambassador at Vienna?—Lord Stewart.

Upon those occasions, when she was so received, what was the conduct and demeanor and appearance of her Royal Highness?—Every thing that was majesty and grace.

How was she treated at those courts?—With the greatest respect and attentions.

Do you remember her Royal Highness travelling from Ancona towards Rome?—Yes, I do.

Do you happen to know who was the courier employed upon that occasion?—I cannot say positively, I think it was Carlo.

Do you remember the subsequent journey from Rome to Sinigaglia?—I do.

Do you recollect in what carriage her Royal Highness travelled upon that occasion?—She travelled in an English landaulet, I am most positive as to this fact.

In what carriage did you travel yourself?—I was in an English landau, I think, it is a long time ago.

Do you remember who accompanied you in that landau?—I think the Count Schiavini, Modemoiselle Demont, and her sister.

Do you remember any thing happening to the Countess Oldi in the course of that journey?—No.

The question refers to the journey from Rome Sinigagila?—She was ill in the journey from Ancona to Rome.

When she was taken ill on the journey from Ancona to Rome did that occasion any alteration?—She changed carriages; she went into the landau, and Mademoiselle Demont went with the Princess in the landaulet.

Did you go back from Rome to Sinigaglia?—We did.

Was that the only journey you took from Rome to Sinigaglia, until after the late King's death?—That was the only journey I ever performed from Rome to Sinigaglia.

Have you any recollection youself, who did perform the office of courier upon that journey?—I do not recollect; there were two couriers. Carlo Forti and Sacchini.

Do you mean two couriers in her Royal Highness's service?—I do.

Can you, by adverting to any thing, recollect which of the two rode as courier upon that journey?—I do not recollect positively which of the two it was.

Do you remember at all, whether Sacchi was taken ill upon any occasion?—I do, it is very imperfectly in my recollection, I remember he was not well.

When the name of her Royal Highness is mentioned to you, does that bring to your recollection any thing about his being ill?—No.

Do you remember, in the journey to Rome, any accident happening as to the horses of any of the carriages?—I do.

What was that accident?—It was an accident from the horses of the Princess's carriage taking fright on leaving the post.

How long upon the whole have you been in the society of her Royal Highness, as part of her suite?—Only since the month of April 1815.

Down to what time?—Down, I believe, to the present time.

How long have you been actually living with her Royal Highness?—To April 1818.

From April 1815 to April 1818, have you been constantly living with her Royal Highness?—I have.

During the whole of that time have you ever seen any thing in the conduct of her Royal Highness towards Bergami, or of Bergami towards her Royal Highness, that was improper, indecent, or degrading to the station of her Royal Highness?—I have not.

What salary had you during the time you were attached to her Royal Highness's suite?—Two hundred pounds a year.

Does her Royal Highness continue that salary up to the present time?—She does.

Cross-examined by the *Attorney-General*.—You are a lieutenant in the navy?—I am.

How long have you been a lieutenant in the navy?—Since May 1809.

How long had you been in the navy before you were made a lieutenant?—Six years.

Your father had been in the service of her Royal Highness?—He was.

He was a page, was not he?—He was.

Do you know how long he was in that service with her Royal Highness?—In the service of her Royal Highness, I do not know; but all his life in the service either of his present Majesty or of the Princess Charlotte.

Her Royal Highness interested herself about your promotion?—Very much.

And through her good offices you were promoted to the rank of Lieutenant?—I was.

When was it you joined her Royal Highness's suite?—In the month of April 1815.

At Genoa?—Yes.

In what capacity?—I cannot positively say in what capacity, but I was given the salary of an equerry, as I was told.

You do not know in what capacity you were in her Royal Highness's suite?—I did not at that time, except the conviction that it was as equerry.

What situation did you subsequently fill in her Royal Highness's suite?—None.

How long were you at Genoa before her Royal Highness quitted it for Milan?—I should think about six weeks.

Bergami was a courier at that time?—He was.

He wore the dress of a courier?—He wore the dress of a courier.

How long after your arrival at Milan was her Royal Highness left without any English lady of honour?—Her Royal Highness was left without any English lady of honour about ten or twelve days, I think, after her arrival at Milan.

How soon after she was left by her English ladies of honour did the Countess Oldi come?—A very short time, one or two days probably.

Before the Countess Oldi came, had Faustina and the little Victorine come into her Royal Highness's family?—They came to Genoa with the child, but I never understood they were in the family.

Did not they live in the family?—I never saw them at Gonoa, but by hazard in the garden.

How often did you see them by hazard in the garden?—I might have seen them once or twice, sufficient to know that they were there.

That is in the garden?—In the house, they were in the house.

Do not you know they lived in the house at Genoa?—I know they lived in the house at Genoa.

In the Princess's house?—In the Princess's house.

When did the mother of Bergami come to the Princess's?—At that time, I think, she came with the child.

Was she also in the house of the Princess at Genoa?—Yes, I speak to the best of my recollection.

Did not Louis Bergami also come into the family of Genoa?—He was there when I arrived.

What situation did he fill in the family at that time?—Page.

Do you mean that he was an upper servant or a footman only?—An upper servant.

At that time?—Yes.

Did he wear the livery?—Yes, a sort of uniform rather than a livery.

You have stated, that you accompanied her Royal Highness in a tour she took to Mont St. Gothard?—I did.

Did not Bergami accompany her Royal Highness on that occasion as a courier?—He was dressed in a courier's dress, but he then rode in a carriage.

In what carriage did he ride, and with whom?—He rode in an open calash, but with whom I cannot say.

Was it not with Hieronimus?—I think it was.

Was not Hieronimus the other courier at that time?—Hieronimus

did travel occasionally as a courier, but he was maitre d'hotel, as I always imagined.

Had not Hieronimus a courier's dress on?—He had.

Hieronimus and Bergami, both having courier's dresses on, travelled together in the same calash?—Both.

In what month, was that tour taken?—I think in the month of August 1815.

In the course of that tour did not Bergami dine with her Royal Highness at Bellinzona?—He dined with her Royal Highness, I think it was at Bellinzona.

Who dined with her Royal Highness besides?—There was the Professor Configliac, who accompanied her Royal Highness, and a man who was living in the mountains, I do not know what he was.

Was not Bergami at the time dressed as a courier?—He was.

Did you dine with her Royal Highness upon that occasion?—I did.

And remained at the table during the whole of dinner?—I did.

You have said, that he did not dine regularly at that time with her Royal Highness, did he after that time occasionally dine with her in his courier's dress?—Never afterwards in his courier's dress.

When did he begin regularly to dine with her Royal Highness?—At the Villa d'Este.

In what month?—I think it was about the month of September that we got to the Villa d'Este; but I cannot speak to a few days at this period.

Did not Bergami dine with her Royal Highness at Lugano?—That was on the return from the journey to Mount St. Gothard.

He did dine with her Royal Highness at Lugano?—I think he did.

Was he not then courier, as he was upon former occasions, when he dined with her Royal Highness?—It was upon the same journey.

Do you remember any other place, in the course of that journey, in which they dined together?—No, I do not.

At the devil's bridge did they dine together?—That was on the same journey; I rather think they did.

On those occasions, on that same journey on which Bergami dined with her Royal Highness, was he not in the dress of a courier?—He was.

When you were at the Villa d'Este Mr. Burrell left her Royal Highness?—He left at the Villa Villani.

That was just before you got to the Villa d'Este?—It was.

Mr. Burrell was not on that journey to Mount St. Gothard?—He was not.

Nor Doctor Holland?—Doctor Holland had left at Venice.

Then was there any other English gentleman with her Royal Highness, except yourself, on that tour to Mount St. Gothard?—None.

When you were at the Villa d'Este, have you not frequently seen her Royal Highness and Bergami walking together?—I have.

Before you set out on the voyage?—On the long voyage, yes.

Have you seen them together in a canoe on the lake?—I have seen them together in a small boat.

With no other person with them?—The boat was not big enough to hold a third, I should imagine, that is to say conveniently; it was a canoe.

When you have seen them walking together, have you not seen them walking together arm and arm?—I have seen them walking together *arm* and arm.

At the Villa d'Este?—Yes, as I have seen her walk with other gentlemen.

You have stated, that during the whole course of the time you were with her Royal Highness, you saw nothing improper, indecent, or degrading to her station, in her conduct towards Bergami?—I have.

You have stated, that you saw her dining with him, when he was a courier, in his courier's dress, that he afterwards walked with her at the Villa d'Este arm in arm; they went out together in a canoe alone, and that he then began regularly to dine with her Royal Highness's; do you think that degrading or not?—I never saw her Royal Highness walk arm and arm with him, until he began to dine regularly with her Royal Highness.

You must perceive that is no answer to the question, do you consider that which you have stated as degrading to her Royal Highness or not?—I do not.

You have stated, that you do not remember seeing her walking arm and arm with him till he dined regularly at the table; did you not see them walking arm in arm in the course of this journey to Mount St. Gothard?—I do not recollect it; I swear I do not recollect it.

Will you swear they did not?—I will swear, to the best of my recollection, that I did not see them.

You say you did not consider this at all degrading to her Royal Highness; have you never represented it to her as degrading to her that Bergami should dine with her?—I never did.

Did you never desire her Royal Highness not to admit Bergami to her table?—Not to my recollection I did not.

Nor any thing to that effect?—Nor any thing to that effect.

Have you never entreated her Royal Highness not to admit Bergami to her table?—I never did.

Then if you never did entreat her Royal Highness not to admit Bergami to her table, you never did represent that to any person?—I do not think I ever did; I could not.

You are not asked whether you could or not, but whether you have ever represented to any person that you had entreated her Royal Highness not to admit Bergami to her table?—I am confident I did not.

You are positive you never did?—I am positive I never did; I feel convinced I never did.

Have you never stated that you entreated her Royal Highness on your knees, and with tears in your eyes, to dissuade her from admitting Bergami to a seat at her table, but without effect?—Never; I never did such a thing.

You are not asked whether you ever did such a thing, but whether you ever stated to any person that you had so done?—I do not think I ever did; I have no recollection of the fact; I could not have done so.

If the fact never happened, you can have no doubt you never did?—I have no doubt within myself.

Is it to be understood, that you now swear you never made such a representation to any one that you had so done. I will read the words again, "that you have never stated that you had entreated her Royal Highness on your knees, and with tears in your eyes, to dissuade her from admitting Bergami to a seat at her table, but without effect?"—I swear not to have the smallest recollection, and I do not think I have done it; I have not done the thing.

You are not asked whether you did actually entreat her Royal

Highness on your knees, but whether you have ever stated that you did, or to that effect?—I have not the smallest recollection of ever having stated such a thing.

Will you swear you have not?—I swear, to the best of my recollection, that I have not.

You say you swear to the best of your recollection; will you undertake to swear positively one way or the other?—I swear as positively as I can;. I have no recollection of the fact; I have no recollection of ever having said so to any person.

Will you swear you have not so said?—I will swear, as I said before, I have no recollection of the fact. I cannot swear to a thing I do not recollect.

You have already sworn that the fact was not so; that you did not entreat her Royal Highness not to admit Bergami to her table; can you have any doubt that you have not said so?—I have no doubt that I never said so; at least, I have not the smallest recollection of the fact.

Were you on board the Leviathan?—I was.

Do you know Captain Briggs?—I do.

Upon your oath, did you never state that to Captain Briggs?—Upon my oath, I do not recollect the circumstance.

Will you swear you did not state that to Captain Briggs, "that you had entreated her Royal Highness, and with tears in your eyes, to dissuade her from admitting Bergami to a seat at her table, but without effect?"—I have not the smallest recollection of ever having said the like to Captain Briggs.

And that that happened the day that the Princess changed the condition of Bergami from being a servant to being a companion?—I do not recollect having said any thing of the sort to Captain Briggs.

Will you swear that you did not?—I will swear that I have no recollection of it.

Is that such a circumstance as that you can have forgotten it if it took place?—It is such a circumstance as that I should have recollected it, I think.

If the fact be true, can you have any doubt you would recollect it; and if it be not true, have you a difficulty in swearing it did not take place?—It is some years ago; it is a long time ago: I cannot recollect the fact.

You have sworn that the fact did not take place; would you, as a gentleman, have represented that that fact had taken place if it had not?—The fact is true, I did not do the thing.

If the fact is not true, could you have represented the fact to have taken place to any other gentleman?—I should imagine not.

Have you any doubt upon that?—No, I do not think I did.

Although you do not think you did, is it to be understood that you will not swear you did not state so to Captain Briggs?—I cannot swear to a thing I have no recollection of; that is impossible.

What do you believe; do you believe you stated it or not?—I do not believe I did.

Then you will swear you do not believe you stated that to Captain Briggs, but you will not swear positively you did not; is that to be understood to be your answer?—Yes.

How long were you on board the Leviathan?—About three weeks.

Where did you leave Bergami's mother and his sister, before you went upon the long voyage?—I think at the Villa d'Este.

How was the mother addressed by the persons in her Royal Highness's family; what was the name given to her?—Madame Livia, Nona, the name given her in the family.

Do you mean to state, that she was called Madame Livia in the family before the long voyage?—I cannot positively say that, for I do not think I ever spoke to her more than once or twice; if I did speak to her I did not call her Nona; I do not know what she was called.

Did you ever hear her Royal Highness call her Nona?—Frequently.

After Mr. William Burrell left, and when you were at the Villa d'Este, was her Royal Highness in the habit of amusing herself at games with the servants?—Very frequently; it was more to amuse William than any thing else, I believe.

Did her Royal Highness join in those games?—Yes.

Was the game Colin Maillard one of them?—There were several games, what they call the Petits Jeux.

Were those games played before Mr. Burrell left her Royal Highness's service?—I do not recollect.

Have you any doubt that they were not?—I rather think they were played even while he was there; I am not certain, but I have no perfect recollection of it.

You know he left at the Villa Villani?—Yes.

The question refers to the Villa d'Este?—Then he was not there, but the same games were played at the Villa Villani.

Before he left?—Yes, and every where else.

Do you mean to state that Mr. Burrell joined in those games; that they were played when he was present?—I do not recollect the fact of his being there.

Had Bergami ever dined with the Princess before Mr. Burrell left?—No.

Was there any other English gentleman in her suite, except yourself, at the time Bergami began to dine with her Royal Highness?—I was the only English person in the suite.

Were Bergami and his brother Louis present at those games you have been talking of?—Yes.

Faustina the sister?—No, I do not think she was.

Was not she living in the family at that time?—I do not think she was; I do not recollect seeing her there.

Did you ever see her Royal Highness perform on the theatre at the Villa d'Este?—Yes.

Have you not seen her perform the part of columbine when Louis Bergami was the harlequin?—I do not recollect that, but it was before more than two hundred persons she performed; I do not recollect what parts she performed.

Do you recollect Louis Bergami performing with her Royal Highness?—Every body performed on the stage together, at least all the household; the piece, whatever it was, was composed of the persons of the house.

Was Louis Bergami one of them?—He was.

Will you swear that you do not recollect her Royal Highness performing the part of columbine?—Upon my word it is not marked on my memory that she performed the part of columbine.

Do you mean that the general conduct of her Royal Highness was such, that you have no recollection of her performing the part of the columbine *with Louis Bergami*?—I do not recollect whether she per-

formed the part of columbine; there were two or three pieces that evening, she may or she may not; I do not positively remember that evening.

Or on any other evening?—No, that was the only time that was performed; there were rehearsals to that little piece that was performed.

I thought you said there were two or three pieces?—Yes, on the same evening; I do not recollect perfectly what they were; amongst the rest there was a dance I believe.

Did her Royal Highness dance?—Yes.

With whom did she dance?—With all indiscriminately, I do not know with whom; the chevalier Tamasia performed, and Doctor Mocatti, I think, performed also.

Do you mean to say you do not remember whether her Royal Highness danced with Louis Bergami on the stage that evening?—I do mean positively to say, that I do not recollect having seen her Royal Highness dance with Louis Bergami; she may, or she may not.

Was not one of the pieces a harlequinade?—Yes, I think it was.

Who performed the part of harlequin?—I have seen Louis Bergami dressed as harlequin; he had the dress.

Having recollected who was the harlequin, do you not remember that her Royal Highness was the columbine?—No, I do not recollect the fact; if I was to say it, it would be only because you say it; I do not recollect that her Royal Highness performed the part of columbine, the thing is not sufficiently impressed upon my memory to declare that it was so.

You will not say that she did not perform the part of columbine?—I will say as much one way as the other; I do not recollect.

Do you remember any part that the Princess performed that evening upon the stage?—Yes, I think she performed the part of an automaton.

What do you mean by an automaton; in what way did she perform?—The history was—it is so long ago that I do not recollect, but it was a man that wanted to sell an automaton, a woman in fact that you could wind up to any thing; I forget the history of the thing; it was a farce upon the person who bought it, to find his mistake; it is a long time ago, I do not recollect the whole of the story; it was a little story composed by the Princess herself, I believe.

Then her Royal Highness was the automaton?—Yes, I think she was; she was in fact.

Did Bergami perform the part of the person who wanted to sell the autometon?—No, I think it was the Chevalier Tamasia.

Who was the person that was to purchase the automaton? who performed that part?—I think it was professor Mocatti.

Did Bergami perform in that piece?—I do not think he did.

Did her Royal Highness play any other part that evening in any other piece?—I cannot remember, it is so long ago.

Cannot you recollect her performing some part with Bergami?—No, I cannot recollect what part she performed.

Do not you remember Bergami performing the part of a sick person?—No; I recollect Bergami performing the part of a fiddler, a sort of a fiddler.

That is another time?—Then I have confounded the two, I only remember one.

He performed the part of a fiddler; did not her Royal Highness on *that occasion* perform the part of a milkmaid, or a person in low life?

—I do not recollect what part her Royal Highness performed, but there were more than two hundred people there; there were plenty to see.

Do not you remember that on that evening she did perform the part of a milkmaid?—No, I do not remember the fact.

Or on any other evening?—No, I have only a recollection of that one evening.

Did not Bergami perform another part that evening, besides this dance?—It is very probable, but I do not recollect.

Did not he perform the part of a physician, and her Royal Highness the part of a sick person?—I do not recollect the fact; I have a slight vague remembrance of something, but I cannot charge my recollection with it.

Do you remember, before your setting out on the long voyage, Saint Bartholomew's day being kept at the Villa d'Este?—I believe it was on that very day that this piece was performed at the theatre.

Was that day kept in honour of Bergami?—I do not recollect whether it was St. Bartholomew's day, or what day; I recollect some great fete at which this piece was performed, but to say it was St. Bartholomew's day I cannot.

Do not you know that this fete was given in honour of St. Bartholomew?—No, I do not; I think it was given on christening the Villa d'Este. on taking possession of the place, which was formerly called il Garo, and it was christened by the name of Villa d'Este.

What month was it in?—It was before our departure; we left on the 14th of November; I cannot say whether it was a week, or a month, or six weeks before our departure.

Whether it was the day on which this theatrical representation took place or not, was there not a fete at the Villa d'Este on the 24th of August, Saint Bartholomew's day?—I cannot recollect whether there was a fete on that day or not, there might have been.

Is there nothing to bring to your recollection whether that fete was on the 24th of August, St. Bartholomew's day, or not?—I think it was about that time, the 24th of August we were performing the journey to St. Gothard; it was in the early part of August we had not got possession of the Villa d'Este then.

Was there no fete given at the Villa d'Este before you actually took possession of the Villa d'Este?—No, I do not remember that there was.

Did you accompany her Royal Highness to Venice?—I did.

With Dr. Holland?—With Dr. Holland.

You remained at Venice during the time her Royal Highness was there?—I did.

You have stated that you accompanied her Royal Highness on the long voyage; before that voyage had Bergami been raised to the rank of a baron?—No.

Before your leaving Sicily?—Before our leaving Sicily he was,

And a knight of Malta?—And a knight of Malta.

When you first went on board the polacca, where did Bergami sleep, where was his sleeping-room?—I think he had the after of the small cabins on the starboard side.

What sized vessel was the polacca?—I should suppose about 260 tons English.

About what width was she at the stern?—Probably about eighteen feet, or not so much, but I may be out, I never measured it.

She was a vessel of about 260 tons?—Yes, the Italian vessels, the

foreign vessels fall in very much; they are not built so wall-sided as ours are.

You have said that Bergami at first slept in a small cabin?—The after cabin on the starboard side of the vessel, one of the small cabins.

Was that next the dining-room?—It was.

Who slept in the cabin next to him on the starboard-side?—I think it was the Count Schiavini.

Who next to him?—William Austin.

Who next to William Austin, do you recollect?—I think Camera.

Who on the other side; the larboard side?—The two maids, the after cabin next the dining-room.

Who next to them?—Myself.

Who next to you?—Mr. Flinn.

Who next to him?—Hieronimus.

After you left Tunis, did Bergami sleep in the dining-room?—Yes, he did.

You have stated, that whilst you were at Tunis you visited Utica? I did.

Where was it you slept on the night of the day you visited Utica?—We slept at the palace of the younger Prince Sidi Mustapha, called Sabella.

Utica itself is in ruin?—In perfect ruins.

How far from Utica is the palace of that younger Prince?—I should think eight or nine miles.

How far is Utica from Tunis?—About two and twenty miles.

After having visited the ruins of Utica from Tunis, you went to sleep at the palace of this younger Prince?—We returned to Sabella.

You have stated that on board this polacca, there was a tent on the deck?—I have.

And that on your return from Jaffa, the Princess slept under that tent?—Constantly.

Was that tent always of the same size, or had it been more contracted at first and afterwards enlarged?—From Jaffa, I imagine, it was always of the same size; I do not know of any particular difference.

When you say you imagine, do you recollect one way or the other, whether the tent, when first it was put up, covered the passage which you state there was from the deck to the dining-room?—I think it always covered the passage.

Are you quite sure of that?—I am quite sure with myself, I have no recollection of it any other way.

What was the size of the tent?—It might have been ten feet in the length, and the sofa was about six feet; I suppose it was about four feet more, about ten feet.

How wide?—It included one side of the ship, and the batchway of the ship perfect.

How wide do you think it was?—I suppose it might have been sixteen feet altogether.

You say there was a sofa and a bedstead under that tent?—I do.

Whereabout was the bedstead, with reference to the sofa, under that tent?—The bedstead was at right angles with the sofa.

How near?—Three or four feet apart.

How near was the nearest part of the sofa?—I mean the adjoining angle of the sofa and the bed I should imagine to be about three feet *or four feet* apart.

You have stated, when you were off Caramania an accident happened, and that her Royal Highness came below to sleep; where did she sleep?—At first she laid down upon the deck; afterwards she went into the cabin of William, where the water came in; and lastly, she came and lay upon my bed; and I cut out the whole of the front of my cabin to admit the air.

When you say she first lay upon the deck, whereabouts did she lie?—I think she lay aft, on the starboard side, in a small space between the cabin and the hatchway.

You stated that you saw Bergami handing her Royal Highness down, did you see afterwards where he slept, where he was lying down?—I do not think that he lay down at all; I do not recollect where he was afterwards; I only saw him handing down her Royal Highness, with, I think, Flinn and others assisting; Flinn was assisting her Royal Highness down, but where he went afterwards I have no recollection, I took no notice.

You have no recollection then of seeing Bergami after that any where?—I have not.

Did you not see him laying down upon the deck after that?—No, I do not recollect that I did.

Where did Bergami sleep on the return from Jaffa?—I do not know where he slept.

Have you never seen him under the tent upon the bed?—In the night time?

By day or by night?—I have seen him under the tent in the day, as every body else was there.

Have you seen him upon the bed?—I have seen him sitting either upon a chair or upon that travelling bed.

You have stated that Bergami at first slept in the cabin which you have mentioned—that he afterwards slept in the dining-room; do you know where he slept on his way home from Jaffa?—I never saw him sleeping any where after that, therefore I cannot declare where he slept.

You have stated that upon one occasion, not knowing that the tent was closed, you ascended the ladder to the tent?—More than once.

Did not that ladder communicate to the dining-room?—It did.

At what hour was it, or about what hour was it, upon any of those occasions, that you went into the dining-room, and up the ladder?—It might have been ten o'clock or half past ten, before I went to bed.

Do you know who was under the tent at that time?—Her Royal Highness the Princess.

Any other person?—I do not know, for I did not see any body.

Was it dark?—It was dark.

Did you see the Princess?—I did not.

Did you see Bergami anywhere?—I did not.

Did you not upon that occasion pass through the dining-room, in which Bergami had slept on the outward voyage?—I passed through the dining-room.

In which Bergami had slept on the outward voyage?—Yes.

Was there any light in the dining-room at that time?—I do not recollect, I do not think there was.

Where did Demont and her sister sleep at that time?—I do not know, I have not seen them in bed, but I imagine in their cabins.

After the Princess slept on the deck, did not one or other of them occasionally sleep in the Princess's room with the little Victorine?—I believe they did by turns.

You have said, that you do not know where Bergami slept; upon your oath, do not you believe he slept under the tent?—I have heard he did sleep under the tent.

I do not wish to know what you have heard?—And I believe he did sleep under the tent.

Whilst you were on board the polacca, as you have not recollection of St. Bartholomew's day in the year 1815, was not St. Bartholomew's day celebrated on your arrival off Syracuse?—We were at Syracuse.

The Earl of Lauderdale rose to ascertain whether the answer to the question, whether the witness believed that Bergami slept in the tent, was not—"I believe Bergami did sleep in the tent?"

Mr. Brougham began to offer some observations.

The Duke of Clarence.—Let the witness withdraw. (Withdraw, withdraw.) The witness withdrew.

Mr. Brougham.—The witness unquestionably added to, "I heard that he did," "and I believe he did." The Attorney-General said, then, "I do not want what you heard." The witness had, in fact, given the same answer to his learned friend (Mr. Tindall).

Mr. Gurney, the shorthand-writer, stated the answer to be, "I have heard that he slept under the tent, and I believe he did;" and added, that the Attorney-General certainly said, "I do not wish to know what you have heard; but I ask you as to your own belief."

The Lord-Chancellor asked what correction of that was required.

Mr. Brougham said that he wanted no correction whatever of that.

The witness was recalled, and the cross-examination continued by the *Attorney-General.*

Do you not believe that on the return from Jaffa, Bergami slept constantly under the tent?—I have heard that he did sleep under the tent, and I believe he did sleep under the tent.

Without referring to what you have heard, do you not believe that he slept under the tent?—I have already said so.

Believing that, do you think that degrading or not to her Royal Highness?—No, I think it was necessary that somebody should sleep near her Royal Highness on deck on that occasion; I have heard that people have slept there too.

You are not asked as to hearing what other people have done, but whether your belief that Bergami slept under the tent with her Royal Highness, was or was not a matter degrading to her Royal Highness's station?—No, I do not think it was.

You were asked, whether on your arrival at Syracuse, St. Bartholomew's day was not celebrated on board the polacca?—I recollect that the sailors had a fete on board, and drank, and sung, and danced.—

Upon St. Bartholomew's day?—I believe it was on St. Bartholomew's day.

Have you any doubt about it?—No, I have none.

Then why do you say you believe?—Because I believe it was so.

You say the sailors were regaled on that day?—I do not know who paid, or who regaled them; I know they were rejoicing in fact.

Do you mean to say you do not know who regaled them on that day?—I do not know who regaled them on that day.

Who do you believe regaled them on that day?—I suppose Bergami did.

Why do you believe that Bergami did?—Because in those countries they always keep the day of their name instead of their birth-day.

Was this day kept in honour of Bergami?—They were rejoicing, and it was his saint's day; in fact, every body keeps that day in Italy.

Was there any other saint's day kept on board the polacca in the same manner?—I do not remember that there was.

Was not the ship illuminated on this night at Syracuse?—I do not recollect that.

Did not the sailors cry, Viva St. Bartolomeo! Viva la Principessa! Viva il Cavaliere?—They may have cried so, but I did not hear them: at least, it is not marked upon my memory that they did.

Do you mean to say that you heard none of the exclamations of the crew, who were very gay upon the deck?—I must have heard all their exclamations, but none of them have been marked upon my memory sufficiently to enable me to say what they were; it is very possible they may have said Viva il Cavaliere.

Did you see Bergami and the Princess on that day on board the polacca?—We were in quarantine, and every body was on board; I must have seen them.

Where did you see them, on the deck?—As usual.

Did you see them walking on the deck as usual?—As usual.

In what manner were they walking when you say as usual, the Princess and Bergami?—I do not recollect to have seen them precisely that day walking more than another, but if they were walking, they were walking as they always did.

Arm in arm?—They might have been walking arm in arm.

Was that their usual way of walking on the deck?—Her Royal Highness could not walk on the deck without the arm of somebody.

They were in port on this occaison, were they not, in Syracuse?—They were.

Could she not have walked therefore on the deck without the assistance of any other person?—I do not say she was walking with the assistance of any other person; she may have walked alone, and she may have walked with his arm; I cannot recollect, the thing was not so remarkable as to make a note in my memory how she walked.

Was it so usual for her to walk arm in arm with Bergami, that it made no impression on your mind when you saw it?

Mr. Brougham objected to the question, on the ground that it was assuming that they had been seen walking arm in arm on this occasion, whereas the witness had more than once declared that he had no recollection of such a circumstance. He had no objection to the question as a general question with regard to what occurred at other places; but the witness having said that he had no recollection of their walking in this manner at Syracuse, it must not be assumed that he had seen them walking arm *in arm at that place.*

The Attorney-General said, that the witness admitted having seen them walking arm in arm, and he only asked him now if that was so usual an occurrence as to make no impression on his memory?

Earl Grey thought that the question, shaped as it now was, assumed the fact of their having been seen walking arm in arm on this occasion. It ought to be put generally, and not with reference to the manner in which they walked at Syracuse.

The Attorney-General thought, that on cross-examination he had a right to put such a question.

The Lord-Chancellor thought there could be no objection to the question if its meaning were shaped in a different way, so as not to assume that as proved which the witness had not proved.

Was it so usual a thing for the Princess to walk arm in arm with Bergami, that if she had done it in Syracuse, it would have made no impression upon your mind?—It would not.

During this voyage, and your journey to the East, were any additional orders conferred upon Bergami?—I do not know whether you can call it an order, it was a thing her Royal Highness had spoken of for many months before she undertook her journey, saying she would make a little recompence to those who would accompany her on that pilgrimage, as a mark of distinction, as a memento rather.

The question was, whether any orders were conferred upon Bergami, in the course of that journey to the East?—If that is an order, it was.

What was it?—It was called the Order of St. Caroline.

Was Bergami one of the knights of this order?—Yes, he was.

The grand master?—I believe he was, so it says in the diploma.

Was any other order conferred upon Bergami in the course of that journey, at Jerusalem?—The Order of St. Sepulchre, of the Holy Sepulchre.

Do you know whether that order was purchased for Bergami?—I have not the slightest idea of the thing; I do not believe it was.

Were there any other persons on whom that order was conferred?—There were Count Schiavini and William Austin.

Is that a Catholic order?—I believe it is.

Were you present when that order was conferred upon Bergami?—I was.

And the Princess?—And the Princess.

Where was it?—It was in that called the Temple of Resurrection; the cathedral in fact at Jerusalem.

In going to Jerusalem, did you repose under tents?—We did.

By day?—Yes, by day.

You travelled by night, and reposed by day?—Yes.

How many tents were there, do you recollect?—There might have been six or seven, more or less; I cannot say, but certainly more than four or five.

Who reposed in the tent with yourself?—Mr. Flinn in general, and the doctor I believe, and Schiavini.

Did you see the Princess, when she alighted from her ass, retire to *her tent*?—I have seen her throw herself on the sofa of her tent, on *getting* down from her mule or ass.

Do you know where Bergami reposed during the day?—I do not.

Do you not believe that he reposed under the same tent with her Royal Highness?—I do not know, I never saw him there.

Do you not believe that he did?

Mr. Brougham said, he did not interpose here for the purpose of objecting to the question, but merely that their lordships might make a note in their own minds, that he did not object to it, although he certainly had a right. He had not, however, the slightest objection to this question, and a thousand others to the same purpose; he was, on the contrary, only sorry that he had not put them himself.

The question was proposed.

He may or may not; I do not know.

What is your belief?—I dare say he did; I do not know.

Do not you believe that he slept under the same tent with her Royal Highness?—I can only say, as I have said, I do not know.

What do you believe?—He may or may not, I cannot say, because I have no grounds for believing it.

Did you see him under any other tent reposing?—No, I did not; I retired to my own tent directly I got off my horse, and there I slept of course till dinner-time; till it was time to go, when every body was in movement.

Do you know where Schiavini slept?—I think he slept under the same tent as I did myself, as I have stated; but I will not be positive even as to that fact.

Do you know were Hieronimus and Camera slept?—I do not; I have never seen them sleeping.

You have stated, that in the course of your journey in the East, you were at Ephesus?—I did.

You remember the coffee house, the Caffè Turque, at Ephesus?—I do.

Do you remember where the Princess dined, or do you not?—The following day she dined in the churchyard, under the porch of the church; the porch of the old mosque.

Can you recollect where you dined upon that day yourself?—I feel thoroughly convinced that I dined there with her.

Will you swear that that day you dined with her Royal Highness?—I will swear that is the impression upon my mind, that I dined with her Royal Highness.

Where did you land on your return from the voyage?—At Capo d'Anza.

You have stated, that at the Barona her Royal Highness gave some entertainments, some dances, and you have mentioned the daughters of some persons who were there, who were they?—I think they were the daughters of the agent of the farm; the farmer's daughters.

How many of them used to come to the ball?—Three or four, or five; I do not precisely recollect the number; it was a dance, not a ball, for the amusement of the household.

Do you know a person who kept a public house at the village at Barona?—No, I do not.

The St. Christopher?—I do not.

Do you know a person of the name of Johana Ange?—I do not.

some iced lemonade, or something of that kind, on the road?—I do not; I have not the smallest recollection of it.

Do you remember in what carriage the Princess travelled on that journey from Rome to Sinigaglia?—I think it was the landaulet.

Are you sure it was in the laudaulet?—I am not certain, but I think it was. She had travelled in that to Rome; in fact, she almost always travelled in that carriage.

It was very hot weather, and you travelled by night, to avoid the heat of the day?—Precisely so.

Who travelled in the carriage with her Royal Highness?—I rather think the Countess Oldi and Bergami.

Who travelled in the carriage with yourself?—As far as I recollect; it was the two chambermaids and the Count Schiavini. I understand the question to allude to the journey from Rome to Sinigaglia: in going to Rome, I did not travel in that carriage.

Where did little Victorine travel?—She was always with her Royal Highness.

Do you mean to say that she travelled with her Royal Highness the whole way from Rome to Sinigaglia?—I think she did; because I recollect a circumstance that she would not come into our carriage any more, from having been upset going in the journey from Inspruck to the Tyrol, and the child happened to be in our carriage, and after that she would not come with us; that has marked it in my memory.

Notwithstanding that circumstance, can you undertake to say, that Victorine was not occasionally in the carriage in which you travelled from Rome to Sinigaglia?—I do not recollect her having been in that carriage.

Can you swear that she was not?—I swear from my recollection as much as I can, I cannot positively swear she was not, for she might have been, but I do not recollect it.

Who travelled in the third carriage?—I think it was William Austin and Captain Vassali.

What sort of a carriage was that?—A little German carriage belonging to William.

What carriage did you travel in?—In the English landaulet, I think.

I have been speaking at present of the journey from Rome to Sinigaglia; I now wish to call your attention to the journey to Rome; do you remember, at Ancona, seeing Louis Bergami?—Yes.

Did not Louis Bergami go with her Royal Highness and the suite from Ancona to Rome?—I will not be certain as to that fact.

You remember seeing him at Ancona?—Yes, because he came from Rome back to Ancona.

And met you at Ancona?—And met us at Ancona.

Did not he afterwards go with the Princess and her suite to Rome?—That I do not recollect.

You are quite sure you saw him at Ancona?—I feel persuaded that I did see him at Ancona.

Was there a fourth carriage from Rome to Sinigaglia, besides the three you have mentioned?—I have mentioned four.

Who travelled in the fourth?—I travelled in the fourth with a Roman Captain Lancy, that was to Rome.

You have mentioned the persons who travelled in three of the carriages from Rome to Sinigaglia; do you know who travelled *in the fourth*, from Rome to Sinigaglia, whether Camera and

Louis Bergami went in that fourth carriage?—I do not recollect: I cannot say.

Did not Camera and Louis Bergami go from Rome to Sinigaglia in your company?—Positively I do not know; Louis Bergami went, I think, during the time we were at Rome, once or twice to Milan, but whether he returned with us to Sinigaglia I do not recollect.

Who went as couriers from Rome to Sinigaglia?—I rather think Carlo and Sacchini; I do not know whether those were the two couriers on the journey to Rome, whether they both came with us or not I do not recollect.

Can you swear that you saw Carlo Forti on the road from Rome to Sinigaglia at one time?—I cannot swear that I saw either one or the other; I do not recollect; if there was any one marked point where I might have spoken to them I might have recollected it; but I do not recollect which of the two it was.

Do you remember at Foligno having a difficulty about post-horses, or at the stage after Foligno?—No, I do not remember that.

Do not you remember that you were obliged to take the same post-horses you had at Foligno on another stage, in consequence of that difficulty?—That happened so often, that I do not recollect it; at that time it happened very often.

Can you point out any place on that journey from Rome to Sinigaglia where that did happen?—No, I cannot; I mean to say, in travelling that often happens.

Do you remember this happening in your way to Rome?—No, I do not.

You say you do not remember seeing Carlo; do not you remember seeing Sacchi on that journey from Rome to Sinigaglia?—I do not recollect; my memory is not marked by either one or the other; I do not know which it was.

Will you say that Sacchi did not ride by the side of the Princess's carriage during that journey?—Not having seen him, I cannot say.

How far were you from the Princess's carriage on the journey?—More or less; sometimes close, sometimes at a distance.

Will you swear that you did not see Sacchi in the course of your journey from Rome to Sinigaglia?—I cannot swear to a thing I do not recollect.

Did you ever see Bergami's wife?—No.

Do you know any other of Bergami's family besides Louis?—Yes, there were more in the family.

Who were they?—I do not know their names, but there was one called Raggioneto; I do not know what his name was; another was called Bernard.

Was not Bernard the Raggioneto?—No.

Was it Francesco?—I do not know whether his name was Francesco or not.

Do you know Faustina?—Yes.

What relation is she to Bergami?—His sister.

The Countess Oldi you have mentioned?—I have.

When did you first know that she was the sister of Bergami?—I had heard of it shortly after she came to the house, but I did not know it positively for some time afterwards.

Did you hear of it or know of it at the time she came into the service of her Royal Highness?—No, I did not.

Did you know Faustina's husband; have you ever seen him, Martini?—Yes, I have seen him.

Where have you seen him?—At the house of the Princess, the Villa d'Este.

When was it that Louis Bergami began to dine at the table of her Royal Highness?—I think it was some short time after our return from the voyage.

Did Faustina ever dine with her Royal Highness?—I never saw her.

Were there any other of Bergami's relations in the family besides those you have mentioned; do you know Pietro his nephew?—Yes.

Carlini?—Yes.

Another nephew?—I do not know whether he was a nephew or not.

Is he a relation of Bergami's?—I have heard he is.

Do you believe he is?—I believe so, from having heard so.

What situations are Pietro and Carlini in, in her Royal Highness's service?—Carlini was on the long voyage.

What situation was he in, a footman?—I do not know what situation he was in; he was a servant.

In what situation was Pietro?—I do not know whether I am speaking to the right person; Pietro, as I imagine, was in the stables.

After your return from the long voyage, did not the mother of Bergami begin to be called Madame Livia in the family?—Not more so after than before, to my knowledge.

Had she ever dined at her Royal Highness's table before you set out on that voyage?—I do not recollect; she may or she may not; it is not fixed upon my memory.

At Pesaro did not she regularly dine with her Royal Highness?—She did.

And Louis?—And Louis.

Did Bernardo ever dine at the table with her Royal Highness at the Barona?—I do not recollect; I do not think he ever did.

Not at the Barona?—I do not recollect having seen him.

Having seen those members of the family whom you have mentioned as dining with her Royal Highness at her table, did you ever see Bergami's wife, the baroness, there?—Never; I have never seen her.

Neither at the Villa d'Este, at Pesaro, or the Barona?—Neither the one or the other.

How far is the Barona from Milan?—About two miles.

Are you to be understood to say, that although you have seen the mother and the brother of Bergami and his sister at the table, and those other members of the family in her Royal Highness's service, you never saw his wife at any of the places at which her Royal Highness resided?—I have never seen his wife.

How long were you with her Royal Highness?—Threeyears.

During that period, did she never come to see her child at her Royal Highness's house?—I never saw her.

When you first joined her Royal Highness at Genoa, did you go there accidentally, or were you sent for by her Royal Highness?—It was by her Royal Highness's command.

From England?—From England.

Where do you reside at present?—At No. 5, Bury-street, St. James's.

Have you not frequently been with her Majesty at Brandenburgh House?—I have.

Almost every day, or every day?—Not almost every day, not been there since Saturday.

Before that, were you not there frequently?—I have bee twice since my coming to England the last time, once to make n on arriving, and once I think on Saturday; I think those are th times I have been at Brandenburgh House.

Did you see Schiavini there?—I did.

Both times?—Yes, both times.

How long have you been in England?—I came last Friday v think it was Friday week.

Were you in England before?—I have been twice in Englan

How long before that?—About a week; I was ten days at h Rouen.

How long were you in England before you returned for the days?—I think about five weeks.

The Attorney-General then said that he had no fu questions to put to the witness.

The Earl of Liverpool.—I really must submit after the long examination which the witness has u gone, the witnes ought to have leave, if he desires retire for a quarter of an hour, to obtain refreshm

The witness, however, declined the kindness of lordships, but, at the request of *Mr. Brougham*, h accommodated with a chair.

Re-examined by *Mr. Tindal*.—You were asked, whether F the sister of Bergami was in the family of her Royal Highnes You were afterwards asked, whether she was in the house of her Highness at Genoa; you were understood to say, you did no she was in the family, and afterwards that she was in the hous plain what you meant by that distinction?—I meant to say, knew she was in the house at Genoa, but I never imagined she b ed to the household.

You stated that her Royal Highness at the Villa d'Este joined tain games you mentioned, did the whole of her household them, or only the upper attendants?—Only the upper attendan footmen never attempted to join in the amusements; the page ronimus, the chambermaids, and any friends that might have b the house.

You stated that certain plays were performed at the Villa d —Yes.

How many years ago is it since those spectacles took pla think it was on the return from the long voyage in the winter o

Have you any better recollection of the incidents or p those entertainments than that which you have stated?—None least, but common amusement.

Do you remember, when you were at Tunis, a doctor being on board?—I do.

Was it before or after that time that Bergami's sleeping-pla altered?—After that time; the doctor occupied the cabin, not e the cabin that Bergami had occupied, but there were three p shifted, I think the Count Schiavini came further aft, William came next to him, and the doctor took the cabin between.

After that alteration was made, where was Bergami's bed placed?—In the dining-room, within a screen.

You stated that on the occasion of the accident, you described when the Princess came below, you did not know where Bergami went; did he or not go into the cabin which the Princess went into?—There could not have been room; I do not recollect that he went into the cabin, but he could not have gone into the cabin without sleeping upon the ground, besides the whole of the front of the cabin was cut out, I cut it out myself, as low down as about three feet.

Of what was the front of the cabin composed, of what materials?—Of canvass and plank.

You have stated in answer to a question, that you believed Bergami slept under the tent, what is the ground of that belief?—Because in the time of the squall on the coast of Caramania, which made her Royal Highness come down below, Bergami told me the sea came into the tent, consequently he must have been there, or he could not have known it.

Have you a distinct recollection as to the dress of Bergami on that occasion?—No, I have not.

The question is not how he was dressed, but whether he was dressed or not?—Oh, he was dressed.

Do you believe he was dressed every night when he was under the tent?

The Solicitor-General was astonished to hear such a question from his learned friend. He was astonished to hear him say, "Do you believe he was dressed?" to his own witness; and apprehended the question could not be put.

Mr. Brougham was no less astonished at the objection of the Solicitor-General.

The Lord-Chancellor thought that, under the circumstances of the case, the question could not be put.

Of what nation were the crew of the polacca composed?—Of Neapolitans and Sicilians.

You have stated that half the crew were upon the deck during the night?—Yes.

You stated in an answer, that you thought it necessary that some person besides the Princess should sleep under the tent, what was the ground of that necessity?—It was never mentioned to me, but I have never considered it otherwise than necessary, the Princess sleeping on deck by herself would not at all have been right.

Were you acquainted with the characters of the different sailors, who were employed on board that polacca, before you sailed?—Not at all, I had never seen a single man of them before.

Do you know whether her Royal Highness had seen them?—Certainly not; the vessel was hired at Messina, while she was at Catania.

You have stated, that you have seen the Princess walking arm in arm with Bergami, have you ever seen her walking in the same manner with others of her household?—Yes, she has walked with me; I have seen her with Schiavini, and other gentlemen who have come to visit her at the Villa d'Este, and so forth.

You have stated that Bergami was made grand master of the Order of St. Caroline, do you know who were appointed as the knights of

that order?—I was one myself; Mr. Flinn was one; and William Austin, and Hieronimus, and I think Camera, I think Doctor Mocatti was one also, in consequence of his coming as far as Naples to join her Royal Highness for the voyage, but not being able to come then, by not getting his passport in time from the Austrian government.

Was he made an actual knight or an honorary knight of the order?—I do not know; it was only in consideration of his being appointed to accompany her Royal Highness upon the voyage, and not being able, from an obstacle which was thrown in the way by the government under which he lived; I am not quite sure even that he is.

Were the persons whom you have mentioned, exclusive of the doctor, the whole of the persons who arrived at Syracuse with her Royal Highness?—The knights, that is the whole; I have never heard of any body else except the doctor whom we took with us; I am not quite sure whether he was or not.

Was this order, such as it was, conferred on all the suite who arrived at Jerusalem?—No, only on the persons I have mentioned.

Mr. Tindal requested leave to put one question, that he ought to have put on the examination-in-chief.

The Lord-Chancellor said that he might do so, the counsel in support of the bill being at liberty to cross-examine upon it.

Was there any English sailor on board the polacca?—There was, as far as Athens,

What became of him?—He went home from that place.

Have you ever seen him since?—Never.

Have you ever been examined by any person upon the subject of your evidence?

The Attorney-General would be glad to learn how that question could possibly apply, in a re-examination? It did not apply.

Mr. Brougham contended that it did apply, and very minutely. The object of it might be to know whether the witness had ever been to Brandenburgh House, for instance, or elsewhere: and what had occurred relative to this matter on that occasion; whether he had been once or twice, or how often, or not at all. The question did apply, and very minutely.

The Lord-Chancellor.—The question may be asked.

Has any application been made to you for information upon this subject, on the part of his Majesty's government?

The Attorney-General submitted that this question was quite out of the examination.

The Earl of Liverpool said that it would be competent to a peer to ask that question hereafter.

The Solicitor-General observed to the Attorney-General, that the question might as well be asked now; the latter said he waved his objection, and the question was repeated.

I was ordered to attend the Admiralty, where I was asked where I had seen James last, and if I knew where he was; except that, note that I recollect.

The Lord-Chancellor.—Was that person the sailor that was on board the ship?—Yes, he was.

Examined by the Lords.

The Earl of Rosebery.—You have stated, that you sometimes saw the Princess at breakfast at Genoa, did you see her Royal Highness frequently at breakfast?—Only once is impressed upon my memory.

You did not see Bergami at breakfast with her Royal Highness at that time?—Bergami was in the room, but he appeared to me to be waiting.

He was not sitting down?—No, certainly not.

Was there any other servant in the room with her Royal Highness at that time?—I do not recollect that there was.

Directing your attention to the tent on the journey from St. Jean d'Acre to Jerusalem, was there an outer and an inner tent, one tent placed within another?—It was a double tent, there was a gallery round the inside of it.

Do you recollect whether any body lay down within that gallery?—I have never seen them lying down, I have seen in that gallery a mattrass for somebody to lie upon; I have seen the servants behind there; I have seen the mattrass, but I do not know that they slept there because I was never in the tent at that time.

In point of fact, you do not know whether any body slept there or not?—I do not.

Referring to the tent on board the polacca, do you know whether any person could open the tent from the deck, after it was closed at night?—I should think, certainly, by pulling the two parts aside it was very easy.

Do you know whether it was fastened inside at that part where it could be separated in that manner?—No, I do not.

When you ascended the ladder to go into the tent through the dining-room, which you state you did on more than one occasion, did her Royal Highness speak to you?—No; I merely ran up the ladder, and finding my mistake, of course I went down immediately; I hardly got my head up to the combings of the hatchway before I discovered that the tent was closed, and that her Royal Highness had retired; of course I went down directly.

You are understood to have stated that that was after the light had been put out?—Yes, the light must have been out then, it was dark.

Your only knowledge of the Princess being there, was from the fact of the tent being closed?—Exactly.

Do you know that any other person slept under the tent besides Bergami and the Princess during that voyage?—I do not know but from having heard that others slept there; I do not know; I never even saw her Royal Highness sleep there; I never was in the tent at the time.

The Attorney-General said, that the latter part of this answer must be taken out of the evidence.

Mr. Denman submitted, that if a part was to come out, the whole must.

The Attorney-General's objection was to any thing *which* he had heard; the other part was a legal answer.

The Earl of Rosebery desired the shorthand-writer to refer to the following extract, which was read from the former evidence :—

"Do you not believe that, on the return from Jaffa, Bergami slept constantly under the tent?—I have heard that he did sleep under the tent, and I believe he did sleep under the tent.

"Without referring to what you have heard, do you not believe that he slept under the tent?—I have already said so.

"Believing that, do you think that degrading or not, to her Royal Highness?—No, I think it was necessary that somebody should sleep near her Royal Highness on deck on that occasion; I have heard that other people have slept there too."

The Earl of Rosebery.—Do you know that any other person besides those two ever slept there during that time?—I do not know it, but by having heard it.

In the journey from Rome to Sinigaglia, you have stated you have no decisive recollection which of the couriers accompanied the Princess, that you have nothing to mark it in your memory?—No, I have not.

Do you remember either of those couriers going before the Princess on that journey in a carriage?—I have a slight recollection of it, but I do not positively recal it; I believe one of them did, but I have no positive recollection as to the fact.

The circumstance being recalled to your recollection, can you state your belief which of the two it was?—I do not recollect, if I should believe either, it would be Sacchini.

But you cannot be positive?—I cannot be positive.

Earl Grey.—When you stated that you thought it necessary some person should sleep near her Royal Highness on deck, did you mean that you thought it necessary some male attendant should sleep near her Royal Highness?—I meant that.

Under the circumstances in which you believe Bergami to have slept under the tent on deck, did it convey to your mind any suspicion of an improper connexion between him and her Royal Highness?—No, it did not.

The Earl of Liverpool.—Do you know where Captain Flinn slept, on the voyage from Jaffa to Capo d'Anza?—He slept in his cabin, and I recollect some nights his having hung his cot upon deck.

Do you know, or not, that during the whole voyage, or the greater part of the voyage from Jaffa homewards, Captain Flinn hung his cot upon deck?—I have frequently seen his cot there, I do not know how many nights he slept there.

Did you not act as the private secretary to her Royal Highness?—I did.

Do you know any thing relative to the purchase of the Barona, and of its being assigned to Bergami?

Mr. Denman submitted with great deference that the question ought not to be put. He did not mean to object to the question itself, which was perfectly proper under other circumstances, but as the witness, from his situation as private secretary, might be in possession of confidential communications, and might know something respecting *the written instruments* between the buyer

and seller which he ought not to be called upon to disclose, it would be better, as he conceived, to defer the question.

The witness was ordered to withdraw.

The Earl of Liverpool said, that he only wanted to know the fact whether the Princess had bought the estate, and given it to Bergami.

The Lord-Chancellor observed, that it was competent to the noble earl to ask whether any person had bought the estate and given it to Bergami?

The Earl of Liverpool asked whether it was competent to him to ask if the Barona belonged to Bergami?

The Lord-Chancellor having answered in the affirmative, the witness was recalled.

Do you know whether Bergami is in possession of the Barona?—No, I do not, at this present moment.

Do you know whether he has ever been?—I believe it was his; I do not know, but I believe it was.

Was not the name changed to the Villa Bergami; was it not called the Villa Bergami?—I think it was.

The Marquis of Lansdowne.—Do you know where the Countess Oldi and Victorine slept on the journey to Jerusalem?—I think the Countess Oldi had a tent of her own, but I do not know whether she slept there or not; or whether she slept under one of the tents with the chambermaids who were there, I do not know.

Or Victorine?—Or Victorine: I have never seen them sleeping, therefore I do not know.

When you state, that her Royal Highness and Bergami may have been walking arm in arm upon the deck of the polacca, do you mean that her Royal Highness may have been leaning upon the arm of Bergami?—Yes.

Did her Royal Highness, during the time that she was on board the polacca, ever lean upon your arm in the same manner?—It is very possible, I do not recollect the point marked, but her Royal Highness has walked arm in arm with me very very often.

Lord Combermere.—During the period of your residence in Italy, have you ever seen any entertainment, either at the house of her Royal Highness or at any other place, in which the characters of harlequin and columbine were sustained in the same manner that they usually are in this country, in what is called a Harlequin Farce?—All I have seen is, I have seen Louis Bergami in a harlequin's dress, and more than once I have seen him.

Can you state whether you have ever seen the part of harlequin sustained in Italy in the same manner that it is in England?—I do not think I ever did.

The Earl of Limerick.—Upon those occasions, when you state that you believe Bergami slept under that tent, have you any reason to think that any third person, male and female, slept under that tent?—I do not know.

Will you swear you never saw Bergami kiss her Royal Highness?—I will swear I never saw Bergami kiss her Royal Highness.

You are understood to say, in a late part of your examination, that

you thought it necessary that a person should sleep under the tent; what did you conceive that necessity to arise from?—I never represented the necessary myself; but upon the occasion of thinking of it, I must confess that I think it was necessity for some person to be near her Royal Highness; a woman alone upon a ship's deck at sea, I should think perfectly authorized in having some person near her.

Would not that necessity have been equally met by any of her numerous suite having either their hammock slung upon deck, or some person mounting guard outside the tent, instead of sleeping in a covered tent, in the dark?—The thing never suggested itself to me before; but the suite was not so numerous as to admit of one person being always on watch round her tent; there could have been only Captain Flinn and myself, as to the Count Schiavini, you could not expect from him, a man who had never put his foot on a ship's deck before, to keep such a watch upon deck.

Could not a hammock have been slung equally well for any such person, as it was slung for Lieutenant Flinn, who usually did sleep on the deck?—A hammock might have been slung there, but the act of Flinn's bringing his cot on deck was merely to have the cool air, to be more comfortable.

Would it have been a severe hardship on that English sailor to whom you have referred?—He was not on board.

Would it not have equally answered the purpose to meet that necessity you have stated, if a female had been placed in that tent instead of a male person, or besides the male person, the tent being fully equal to the containing three persons?—I cannot say as to that, there might have been fifty other ways, as to that matter; we might have all of us slept round the tent outside as well as one.

Was there ever any order given to the officer of the watch to watch especially over the person of her Royal Highness?—No, I do not recollect it; the officer of the watch was the mate of the vessel.

Were any suspicions entertained by you of the crew, or any part of the crew?—None.

Then it was not from any apprehensions of the crew you conceived it necessary that a man, a male, should sleep under the tent upon the deck with the Princess of Wales?—When I saw the thing, I looked upon it in that way.

In what way?—That it was not at all improper that he should have slept there, her Royal Highness being on deck by herself.

Are you to be understood to say distinctly, that you do not conceive there is any impropriety in a male person sleeping in the same tent, the lights being out, with a female?—From the manner that the hatchway was open, and all the doors below, there was no mystery in it whatever.

As you are a married man, would you have any objection, or conceive it improper that Mrs. Hownam should so sleep in a tent in the dark with a male person?—I trust that every man looks upon his wife without making any comparison or exception; I never made the comparison.

You cannot form an opinion upon it?—I cannot form an opinion.

Mr. Brougham objected to the use made of the word. He observed, that if it was taken down in the minutes, it might give a meaning to the former answer of the witness, different from that which he certainly intend-

ed. The inference might be, that he wished no comparison to be made between Mrs. Hownam and the illustrious person, and such an inference would be untrue.

The Earl of Limerick said, he had made no comparison. He did not wish either to hurt the feelings of the witness, or to have any thing put in the minutes that ought not to appear.

Do you say that you see no impropriety, situated as the tent was open towards the deck below, in a male and female sleeping so placed in such a tent?—I do not conceive there was any impropriety in the thing, because I must have felt it, and I did not feel it; I have seen so many situations that her Royal Highness has been placed in, in the course of her travels, that I do not look upon it as improper.

What do you mean by saying, you have seen so many situations, in the course of her Royal Highness's travels, that you do not think it improper?—At Ephesus the Princess of Wales lay under a sorry shed, that you would hardly put a cow into in this country, in the midst of horses, mules, Jews, Turks—all I can say is, that the idea did not strike me as improper.

In the early part of your cross-examination you said that you did not know where Bergami slept; after a considerable time, after many questions, you were induced to form a belief, and to state that Bergami slept in the tent. I beg to ask what is your reason for stating that early in your examination?

The Earl of Liverpool submitted that this was not a proper question; it was a sort of inference to be collected from the testimony of the witness, a matter of reasoning by and by.

The Earl of Limerick said a few words in explanation of his motive in putting the question. It was ordered that it should be struck out of the minutes. His lordship then asked,

In a very early part of your cross-examination, a scene, or rather a representation of several scenes of comedies or farces were called to your recollection, and you were asked several questions regarding them. You perfectly remembered the characters of several persons engaged in the performance, but when asked the particular characters supported by the Princess, you did not recollect whether she bore any character or not. Now I ask you how you reconcile to yourself the recollection of all the others, and not the Princess of Wales's character, which must have been so prominent a feature.

Earl Grey remarked, that this question was liable to precisely the same objection as the former.

The Earl of Lauderdale reminded the House that the witness had already sworn as a fact that the Princess had appeared in the character of an automaton.

The Earl of Limerick said that he had no object but to elicit truth, and would put any question the learned counsel for the Queen might wish the witness to answer. (*"No, no,"* "go on.")

You recollect that Louis Bergami was dressed as a harlequin, you do not recollect, it seems, the dress or character of the Princess of Wales; did you see Louis Bergami and the Princess dance, in any part of those representations, together?—I have seen Louis Bergami frequently dressed as a harlequin, and it was that which impressed upon my memory that he was dressed as a harlequin; that evening we all danced together, and I was dressed as a Greek.

As in this piece of harlequin and columbine the principal part most probably was not omitted, who did play columbine?—I do not recollect; if I did recollect that the Princess played columbine, I I would state it.

Your recollection served you as to another of these farces, in which you state the Princess played the part of an automaton, is that correct?—Yes.

You were understood to say, that part of the farce consisted in the representation of the selling of this automaton, and, of course, the buying of her?—It was the plot of the history that has marked it upon my memory.

What did the automaton do; was she sitting, standing, lying, running, or what?—I think in a box standing up.

Do you conceive that these acts, so stated by you, are consonant to the high dignity of the royal personage about whom we have been speaking?—I do not consider it in the least derogatory to her Royal Highness's rank, knowing the pleasure she takes in that sort of entertainment.

The counsel were directed to withdraw, and the House adjourned.

NINTH DAY.—October 12.

The House was called over soon after 10 o'clock.

The Earl of Blessinton immediately rose, and alluded to the difficulty of hearing the questions put to the witnesses, and the answers given. Even the repetition by the shorthand-writer could not always be heard. He suggested that the questions and answers should be repeated separately, in order to prevent misunderstanding; for, as the examination had hitherto been conducted, an idea had gone abroad that the questions were hurried on so fast as to confuse the witness.

The Lord-Chancellor suggested that the better way would be for the question to be repeated by the shorthand-writer before the answer was given, and then the answer to be repeated before any other question was put. His lordship also suggested to the shorthand-writer to read aloud, for occasionally noble lords who sat behind him could neither hear the question nor answer.

The Earl of Lauderdale objected to the proposed mode of reading the questions before the answers were given. He certainly must consider such a course of proceeding highly improper, as its tendency would be to destroy completely the *main effect* of cross-examination.

Earl Grey admitted the force of his noble friend's objection, but their lordships had no alternative; for if the questions and answers were not distinctly repeated, he for his part could not hear one in ten.

Lord Erskine said it would be wrong not to follow what was adopted from the commencement of the proceedings.

Lieutenant Joseph Robert Hownam was again called in, and further examined by their lordships.

Lord Walsingham.—Do you know where it was that the Princess took her bath on board the polacca, what cabin, or where?—I never saw her Royal Highness take a bath on board, consequently I cannot tell.

The Earl of Carnarvon.—You have stated that you were with her Royal Highness at Trieste, can you speak from your own knowledge, whether after the time you joined her Royal Highness in Italy, she ever was at Trieste, except upon the occasion you have referred to?—Never.

The Earl of Kingston.—Were you in the Princess's service before Bergami?—I was not.

You never served her before?—I never served before in her service.

Do you know the reason that Bergami was selected to be in her Royal Highness's tent in preference to yourself or Mr. Flinn?—I do not.

Is it customary for a sentinel to sleep on his watch?—It certainly is not customary for a sentinel to sleep on his watch.

On board of what ship have you served?—I served in many ships.

Be good enough to name them, and the captains?—I have served in the Africaine, Captain Manby; in the Lively, Captain Hammond; in the Centaur, Sir Samuel Hood; in the Barfleur, Captain M'Cloud; in the Lavinia, Lord William Stuart; in the Resistance, Captain Adam, Captain Rosenhagen and Captain Pellew; in the Undaunted, Captain Usher; I think those are all the vessels I have served in.

How many years have you served?—Since the early part of 1803.

The Earl of Darnley.—You are understood to have said, in answer to a question put in the latter part of your examination, that there was no mystery or concealment whatever in Bergami's sleeping underneath the same tent with her Royal Highness on board the polacca; on other occasions, when Bergami may have slept near her Royal Highness during that journey, was there any mystery or concealment of any kind?—None whatever.

What is your opinion of Bergami, as the servant of her Royal Highness?—I must here confess that he was excessively attentive, and most ready in his duty.

Was he among the servants of her Royal Highness more likely to be selected, on account of his fidelity and attachment, than any other to guard her Royal Highness?—I should think, from the way I have seen the Marquis Ghisiliari and other persons conduct themselves towards him, that it would authorize that.

No suspicion was ever entertained in your mind, in consequence of the circumstance you have mentioned?—None.

You have been asked relative to Mrs. Hownam, to which you declined giving any reply, have the goodness to state about the age of Mrs. Hownam?—About thirty.

Have you always lived together as man and wife ought to do?—

On this question being put there was a loud cry of "Order! order!" and considerable confusion, amidst which the witness answered—"We have."

The Earl of Lauderdale.—I will just ask your lordships how this can be evidence?

The Lord-Chancellor could not conceive how the question could apply in any way to the inquiry before their lordships.

The question was accordingly struck out.

You are well acquainted with Lieutenant Flinn?—Yes, I am.

You believe him to be a man of honour?

The Attorney-General submitted an objection to the question.

The Lord-Chancellor said, that the only question that could be put upon that subject was, "Is Lieutenant Flinn a man to be believed upon his oath?"

Do you believe Lieutenant Flinn a man to be believed upon his oath?—I believe Lieutenant Flinn to be a perfect man of honour.

I wish to know, but I do not desire to press the question, whether, from the knowledge he has of Lieutenant Flinn, he believes his understanding to be at all times perfectly clear?—I am not competent to give an opinion on the understanding of a man of my own age.

The Lord-Chancellor objected to the question; and it and the answer were struck out of the minutes.

Lord de Dunstanville.—What was the distance from the steerage to the tent?—They are upon separate decks, the steerage of the vessel is underneath.

From the helm?—I should think four or five or six feet, five feet probably.

You have said, that sometimes during the voyage from Jaffa, Lieutenant Flinn slept on deck, do you not think when Lieutenant Flinn slept there, her Royal Highness was sufficiently protected?—His sleeping there was a thing that was not constant.

When he did sleep on deck, was her Royal Highness sufficiently protected?—I should think she was sufficiently protected.

If Lieutenant Flinn had slept upon deck during the whole voyage from Jaffa to Syracuse, would it have been necessary that any one should sleep in the tent with her Royal Highness for her protection?—The ship rolling very heavy, an accident might have happened in the tent.

Mr. Brougham objected to the manner in which the answer had been taken, and the witness answered,

There may have been many reasons; the ship rolling very heavy—an accident might have happened in the tent, and twenty things—a sea breaking on board.

The Lord-Chancellor requested the witness to raise his voice.

Is that to be understood to be an answer to the question?—Yes.

You have said that at night you sometimes went up the ladder from the dining-cabin to the tent, but that finding the Princess had retired for the night you withdrew; how do you reconcile this proceeding with your opinion that there was nothing indecent in Bergami passing the night in the tent with her Royal Highness?—I withdrew from the impossibility of getting on deck, as the tent came close round to the combings of the hatchway, all round on the side on which the ladder was placed.

You stated that there was no light in the dining-room?—I think not.

What was the occasion of your going into the dining-room, and from thence into the tent?—From the habit of going up there all day; I did not know that the tent was closed; it was not absolutely in the night; ten o'clock, I think I said—towards the evening.

At what period of the year was this?—We left Jaffa I think on the 17th July, and we arrived at Syracuse, I think, on the 20th of August.

Do you mean to say, that at that period of the year, it was not dark at 10 o'clock?—It was night-time, it was dark; it was as dark as it is at such an hour in such a climate.

When you went up the ladder, at 10 o'clock, did you not know that the tent was closed?—I did not.

Earl Grosvenor.—Have you any reason to believe, that after the violent attack made on her Royal Highness's house at Genoa, or from any circumstance preceding your calling out Baron Ompteda, or from any other circumstances at that time, her Royal Highness entertained any particular apprehensions with regard to her personal safety?—She did, because she has mentioned it to me.

Did she, in consequence of such apprehensions, express to you a wish at that time to be more closely attended by the male part of her establishment?—I have heard her frequently mention this affair, saying, she would have somebody always near her; I cannot recollect the precise words it was mentioned in.

Near her in consequence of those apprehensions?—It was from those apprehensions she had previously mentioned.

Lord Combermere.—You have stated, that on account of the rolling of the ship, as well as for the protection of her Royal Highness, it was necessary to have somebody in the tent with her; would not yourself or Mr. Flinn, or any seafaring person, have answered that purpose better than a landsman, if it was on account of the rolling of the ship?—I should imagine if that was the only cause, certainly a seafaring man would be most capable of rendering assistance.

Could not he have answered both purposes, have protected her Royal Highness, and have assisted her in the event of the rolling of the ship?—I trust he could.

The Marquis of Downshire.—You have stated that you had a quarrel with Ompteda; what was the cause of that quarrel?

The Lord-Chancellor observed, that it had already been determined that that question could not be put.

Did any facts to your knowledge occur at the Princess's residence, that occasioned the quarrel between you and Baron Ompteda?—By the confession of the servant; I saw the servant on his knees begging pardon for his crime.

The Attorney-General submitted that the words, "by the confession of a servant," could not stand on the *minutes.*

The Lord-Chancellor said, that the witness had stated he saw a servant on his knees begging pardon. He might go that far; but if the circumstance was to be made evidence, every word stated by the servant must be proved.

The Attorney-General objected to evidence being received of what the witness had only heard.

The Lord-Chancellor observed, that the witness was asked whether he knew certain facts. He says they came to his knowledge by the confession of a servant. That was an answer, that he did not know of his own knowledge; and if the circumstance was to be made evidence, the servant must be called.

Before whom was that servant kneeling, and what was the name of that servant?—Before the Princess of Wales, his name was Maurice Credè.

The witness was directed to withdraw.

The Earl of Lauderdale said it appeared, that whatever circumstances had come to the witness's knowledge were obtained through the confession of his servant; and as to that confession it was evident the examination could not proceed. If he took a right view of the question and answer, he thought it was impossible that they could be suffered to stand. It would be competent to ask who the servant was whom the witness had seen on his knees before her Majesty, with a view to future proceedings; but he doubted whether their lordships could allow the evidence to stand in its present shape.

Earl Grey said, if any statement had been made of the knowledge which the witness had derived through the confession of the servant, undoubtedly it could not stand on their lordships' minutes: but this was not the case—they had not heard one single circumstance related. All the witness had stated was, that he saw a servant on his knees making an apology to her Royal Highness, and that his name was Maurice Credè. Not one particular of the confession had come out; and, therefore, he conceived there could be no well-founded objection to suffering the evidence to remain on the minutes.

The Earl of Lauderdale desired the question and answer to which he objected to be read; which having been done, his lordship denied that they bore a very different construction, when taken together, from that which the noble earl had stated. Nothing was, perhaps, conveyed to their lordships' minds by the answer alone; but, from the question and answer, it was plain and evident

that the impression was conveyed to their understanding that the circumstances alluded to did come to the witness's knowledge by the confession of a servant. Of that confession they could take no notice, and therefore he was of opinion that the statement ought not to remain on the minutes. He could state a hundred answers which, by themselves, might be considered admissible; but when viewed with reference to the questions that elicited them, ceased to be so. It was on the question and answer united that he founded his objection.

Earl Grey was sorry that their lordships were in the habit of consuming a great deal of time in the discussion of points like the present. The question was, "Did you know certain facts?" The witness answered, "that he did, through the confession of a servant." Had he gone on to state what he had heard the servant say, the evidence would be inadmissible; but as he had not mentioned one of the facts, it appeared to him that the objection was not well-founded. Surely it might appear in evidence that a servant was on his knees, together with the name of that servant.

Lord Holland did not consider that the course adopted by the noble earl (Lauderdale) was regular: A question had been put, and an answer given to it, which was followed by another question and answer connected with the same point. Both were put down by the shorthand-writer; and this having been done, the noble earl rose, and suggested the propriety of striking out the former question and answer. It would be well if objections were taken at the moment a question was put; and that liberty should not be allowed to a noble lord, after another question and answer had been given, to go back to preceding questions and answers, and call for their erasure. He did not think that questions and answers which were formally placed on their minutes could afterwards become the subject of discussion. If it were allowable not only to object to the question and answer before the House, but to refer to other questions and answers, there would be a still more intolerable loss of their lordships' time.

The Lord-Chancellor said, it was undoubtedly important that objections to questions should be offered as soon as possible; but it might so happen that a final answer might be of so objectionable a nature as to render it necessary to expunge from the minutes the questions and

answers that led to it. The witness was asked, "Did he know of any acts or circumstances that caused a particular result?" and he answered, "That he had derived his knowledge from the confession of a servant." The fair interpretation of this was, that the witness was present at a statement made by that servant to another person; but whether this confession had one word of truth in it was not proved. The declaration of the witness might, therefore, under these circumstances, be considered as a direct assertion, that, in fact, he knew nothing of those circumstances. The name of the servant was required; and it was stated: if, therefore, he was not present to speak to the facts, the whole must fall to the ground.

The Marquis of Buckingham thought that the course suggested by his noble friend (Lord Lauderdale) was warranted by the circumstances. The quarrel between Lieutenant Hownam and Baron Ompteda, as it appeared to him, formed no part of the case which they were investigating; and, therefore, he contended the questions and answers referring to that quarrel ought to be expunged.

The Earl of Carnarvon looked upon the question as one that ought to be put, since it bore evident reference to the cause which led to certain instructions said to have been given to the servants not to molest Baron Ompteda. It seemed now that those instructions were given by the witness himself, who had forbidden the servants to obstruct or interfere with the Baron; and if they stopped an examination which might lead to important information as to those instructions, it would, in his opinion, be exceedingly wrong. He did not know how their lordships could at that moment declare that no allusion should be made to circumstances which formed no inconsiderable part of the case. The question affected the credit of a witness who had been formerly examined, and therefore was extremely material for their lordships. If they even wished to expunge that question and answer, it would be still competent to inquire whether the witness had seen any person, and whom, on his knees, before the Princess? The fact that the witness had sent a challenge to Baron Ompteda had been elicited by a question not put in a direct form, and perhaps the facts which led to that circumstance might be come at in a similar way.

The Marquis of Buckingham said, his objection was that the case before them did not appear to be connected with this quarrel.

The witness was again called in.

The Marquis of Downshire.—With whom did this person, Maurice Credè, live; whose servant was he?—He was the servant of her Royal Highness the Princess of Wales.

Was it in consequence of any thing that man said to her Royal Highness that you called out the Baron Ompteda?

The witness was directed to retire, and the Earl of Lauderdale caused the last question to be read. He then objected to it, as referring to a matter not connected with the case.

The Lord-Chancellor said he was sure that the cause which induced this gentleman to call out Baron Ompteda had nothing to do with the issue their lordships had to try.

The Marquis of Downshire was of opinion that he had a right to put the question.

The Lord-Chancellor.—Of course the noble marquis will not suppose that I would have the presumption to say that he has no right to put any particular question; but I should not do my duty in this House if I did not declare, plainly and directly, that I think the question cannot legally be put.

The Earl of Liverpool was aware that their lordships were not shackled by the ordinary rules of evidence; but he believed there was scarcely a case in modern times, in the progress of which the peers had not imposed that restriction on themselves; and in this instance the practice had been followed to the present moment. Now he would throw it out for the consideration of their lordships, what a sea of difficulties they would have to encounter, if, having adopted that course, they should suddenly abandon it, and claim the right of putting any sort of questions they pleased.

Earl Grey thought their lordships ought to confine themselves as much as possible to the rules of law that prevailed in the courts below; and, having so long adopted that principle, he conceived it would not be right to depart from it, except on some very important occasion. He did not understand that his noble friend was going to press this question, which, under the circumstances of the case, could not, in his opinion, be put. To make it a legal question, the case of Baron Ompteda must be connected with that into which they were authorized to inquire.

The Marquis of Downshire was willing to withdraw the question, which he had put because it had not been asked

by any other peer. He still wished, however, to elicit the fact by some other means.

The witness was again called in.

The Marquis of Downshire—Do you know where Maurice Credè now lives?—I do not know but from hearsay.

A Peer.—We cannot receive any hearsay evidence.

The Lord-Chancellor.—The question, I think, may be allowed. Any noble lord who wishes to call this person to the bar may follow up the information he receives, so as to effect that object.

Do you know where Maurice Credè now lives?—I have heard that he is in England.

With whom?—I do not know with whom: I have not heard with whom.

Did Majochi ever mention Ompteda's name to you?—I recollect perfectly, at Rome, mentioning to Majochi the commands of her Royal Highness, that the servants should not, on meeting Baron Ompteda, molest him, or offer him any insult. I never had any conversation with the lower servants of the house on such a subject, consequently he never could have mentioned it to me.

Majochi never mentioned Ompteda's name to you?—I do not recollect it; I do not know that he did.

Earl of Rosebery.—When you saw this man upon his knees to her Royal Highness, did you hear her make any reply to his question of asking forgiveness?—She forgave him.

Do you recollect the words?—I cannot recollect the words.

Viscount Falmouth.—You have stated that you have seen her Royal Highness walking arm in arm with Bergami at the Villa d'Este, was she then with Bergami only?—Walking arm in arm in the garden.

Was there any body else in company?—I do not remember any one particular time to have seen them alone in the garden walking arm in arm.

Are you positive you have never seen them so walking whilst Bergami was courier?—I do not recollect having ever seen them so walking while Bergami was courier.

You are not positive you have not seen them so walking together while Bergami was courier?—I never recollect to have seen them so walking while Bergami was courier.

Lord Hood.—Did the Baron Ompteda dine at the Princess's table at Milan?—I think he did.

Did he at Como?—He did.

Did he at Villa Villani?—He did.

Did Majochi wait at the Princess's table at those places?—He did.

The Duke of Athol.—You have said that you considered it necessary, in the situation of the Princess of Wales on board the polacca, that a male attendant should sleep near her; did you ever express that sentiment to the Princess of Wales herself?—I never did.

In the reasons which you have assigned for not considering it a degradation in the Princess of Wales to sleep under the tent with Bergami, you have said, that there was no mystery in the case, and that the hatchways were open; you have since said, that in an attempt one night to go up the hatchway, you found the tent closed; do you consider that there was no mystery in that?—The tent being closed, her Royal

Highness had retired to rest; I did not consider that there was any mystery whatever in that.

Was Bergami in the tent at that period?—I did not see him; I do not know; I cannot say.

Do you know that he was not in the tent?—I do not know that he was not in the tent.

You have already said that you have heard and believed Bergami slept in that tent; have you any reason to believe that he was not in the tent at that period when the tent was closed?—I never thought about it, I did not think of it.

You have before said, that you never represented to her Royal Highness the Princess of Wales that it was necessary for a male domestic to sleep near her upon the deck, you consequently could not be a recommender of the measure; when you considered it necessary for a male domestic to sleep near the Princess of Wales in the tent, did you consider that it was necessary for a male domestic to sleep within the tent?—I never represented the one nor the other.

You have said, that you thought it necessary for a male domestic to sleep near her Royal Highness; did you think it necessary that a male domestic should sleep within the tent?—I never thought of the thing at all; and, probably, had there been nobody under the tent, I should have taken as little notice of it, as I did when there was somebody under the tent; when I heard it, I supposed it was necessary; I thought it was necessary within myself.

Was it for the Princess's safety you thought it necessary a male domestic should sleep near her?—Her Royal Highness thought so, and I did not think otherwise.

You have already stated, that in your opinion it was necessary, but that opinion you did not communicate to her Royal Highness the Princess of Wales; but in your last answer it appears as if the Princess of Wales did communicate it to you; did the Princess of Wales in fact communicate it to you?—She did not; not on that occasion; except after the business of Genoa, after the general remark that she had always made; not, with the exception of that.

What was the danger to be apprehended on board the polacca?—I do not know any immediate danger.

Mr. Brougham.—The witness never said that there was no danger to be apprehended. He says there was no "*immediate*" danger. The tent was not attacked; there were 22 Sicilians or Italians on board.

Duke of Athol.—Was there any danger?—I do not know any immediate danger, not personal danger; if I had thought that, I should not have been easy myself to have slept below.

Was there any danger sufficient to have induced you at any time to recommend a male attendant sleeping within the tent?—I never did recommend it.

Lord Grantham.—You have said that at Carlsruhe the Princess dined with the Grand Duke, except one day that she dined with the Margravine; did you dine in company with her Royal Highness on those occasions?—I did.

You have said also that she supped at the Grand Duke's, and also at the Margravine's, did you sup in company with her?—Yes, I did.

At what o'clock at that court is the dinner?—I positively can not recollect that.

About what hour?—I do not recollect the hour sufficiently to be able to mark it.

Have you any recollection of the lateness of the hour of supper and the evening parties there?—I cannot say to what hour they lasted; they lasted late in the night, probably twelve o'clock.

Can you, of your own knowledge, say whether the Princess had time to return home between dinner and supper, between the dinner and the subsequently going to the other house, or supping at the same house?—I should imagine yes.

Did she, to your knowledge, on any one of those days, return home between the dinner and the supper?—I do not recollect that.

Will you undertake to say that she did not?—I will undertake to say that I do not recollect the circumstance; If I had the smallest recollection of it, I have no end in keeping it back, in withholding it.

The Earl of Darlington.—Your attention is directed to the time when Bergami, Camera, and Teodoro, took leave of her Royal Highness on disembarking at Terracina; you mentioned that they, each of them, kissed her hand; do you know that Bergami had not taken leave of her Royal Highness before coming on deck?—I do not know that he had; I have not an idea of it.

Did you see those three persons come upon the deck together?—No; I think we were all on deck together.

Bergami, Teodoro, and Camera?—That is the recollection I have of it; every body was upon deck.

Did the Princess then come upon deck when you were all there?—I do not recollect that the Princess was below even.

Did you ever see Bergami take leave of her Royal Highness upon any occasion, in a different manner from those men just mentioned, Camera and Teodoro, or any other persons of her suite?—I have seen him take leave more than once, and I never saw any thing else but the kissing of her hand, as every one else did.

You have frequently mentioned her Royal Highness sleeping in the tent on board; the sleep, when you mentioned her sleeping in that tent, is it to be understood that you meant that she rather reposed upon the sofa, than slept, in the general acceptation of the word sleeping, going to bed, and pulling off her clothes, for the sake of rest; are you to be understood that she reposed with her clothes on, when you make use of the word sleeping?—I do not believe her Royal Highness ever took her clothes off on board the polacca, except to shift herself in the day, to change her dress; that is my firm belief. I mean in the voyage back from Jaffa; on the first voyage she slept in her cabin.

Mr. Brougham, having requested the shorthand-writer to read the whole answer, observed that three or four words of the witness's answer had been omitted which should have been taken down. The shorthand-writer could have no motive in omitting to take down these words, but it was material that they should be inserted. The words omitted were, "That is my firm belief," which he and his learned friends round him had distinctly heard.

The Earl of Limerick, and several other peers, said that they had heard these words added by the witness.

The shorthand-writer accounted for his not having

heard these words by stating, that the witness had added them when turning away, after giving the preceding part of the answer.

You did not positively state that you knew that Bergami was under the tent?—I never saw him there.

If you state that it was your belief that he was under the tent, do you also believe that Bergami reclined in the same manner on the other bed, with his clothes on?—I do not think Bergami ever took his clothes off either, while sleeping under the tent, for I never saw any bed-clothes on that bed.

Do you know where it was that her Royal Highness changed her clothes on the return from Jaffa, whether it was in the tent, or below? —Below, in her cabin; I never saw her change her clothes upon deck.

You never saw her change her clothes?—No, not any where.

Did you from the window of the Villa d'Este, ever see a dance that Mahomet performed at that time?—I did, I recollect particularly once; I was in her Royal Highness's room; I forget now what it was for, something I had to do, and we heard a noise in the court-yard; her Royal Highness went to the window, as I did also myself, and Mahomet was exhibiting this dance before, I did not know who they were, but several persons in the court-yard.

Do you know where Majochi was at that time?—I did not take particular notice of him; there were many servants there; I cannot say positively that he was there.

Was any other person in the room with her Royal Highness besides yourself, at the time you looked out of the window, and saw the performance of this dance?—I do not think there was; I have not a recollection of any body being in the room but myself.

Did you conceive there was any great impropriety or indecency in that dance?—Most certainly not; I never did.

How long is it since you saw Captain Briggs?—I have seen Captain Briggs at Portsmouth, about two months ago.

Did any conversation pass between you at that time upon this subject?—The subject of this inquiry?

Yes.—Captain Briggs declined entering into any conversation on the subject.

You never have, to the best of your recollection, had any conversation on the subject with Captain Briggs, since you were on board the Leviathan?—I never have; I have only seen Captain Briggs once since that time, which was in this House; he shook hands with me, that was all.

If you ever have had any conversation with Captain Briggs, you think you would recollect it?—I think I should recollect it.

Lord Ellenborough.—You say that when you saw Captain Briggs at Portsmouth, he declined having any conversation with you upon the subject of this inquiry; did you propose any such conversation to him? —The object of my going to Portsmouth was that; it was from myself.

What was your reason for wishing to converse with Captain Briggs upon that subject?—I heard that Captain Briggs was coming as a witness against her Majesty, and I felt convinced that it could not be so, and I declared that I thought so, and that I would go and ask Captain Briggs himself.

What did you, in point of fact, ask Captain Briggs?—I asked him if it was a fact that he was coming.

What was Captain Briggs's answer?—He said he thought he should be called, he was afraid he should; that his testimony should be nothing but what was honourable and just.

Was that the whole of Captain Briggs's answer?—I think it was, I do not recollect any thing more.

In that answer Captain Briggs does not appear to have declined entering into any conversation on the subject?—Captain Briggs told me he could not enter into any conversation.

Did you ask Captain Briggs to enter into any further conversation?—No, I did not press Captain Briggs on any particulars, only asked him if he was coming and so forth; I forget the words exactly.

When did you see Captain Briggs in this House?—The day he gave his deposition.

Were you present during the examination of Captain Briggs?—No, I was not.

Had you any conversation with Captain Briggs at that time?—None, but a few words, he shook hands with me over the banisters, and said, "I hope we shall shake hands when I come out."

That was the whole of the conversation?—With the exception of "How do you do."

Did you ever see the tent closed on board the polacca, on the voyage from Jaffa to Syracuse, during the day?—I have seen her Royal Highness falling asleep in the day-time, and I have closed the tent partially myself, brought it round so as to prevent the sun, or whatever it might be; but to close it close, I never saw it.

Were those the only occasions on which you saw the tent closed during the day-time?—I do not recollect ever to have seen it closed, but on such an occasion it never was to say closed.

How frequently might that happen in the course of a week?—I do not remember; I cannot say; it may have happened once or twice, or more times; I do not remember the number of times it happened.

Did you remain on deck after the tent was so closed?—I may have remained on deck; yes, I dare say I did; it is more than probable I did.

Can you take upon yourself positively to say that you ever did?—It is five years ago; I cannot remember so as to say that I did; it is a long time ago; I cannot remember such a fact as that.

When the tent was so closed, was any person under the tent, except her Royal Highness?—I have not seen any body.

Can you positively say, that when the tent was so closed, you saw no one under the tent except her Royal Highness?—I can positively say that I never recollect to have seen any body under the tent when the tent was so closed.

Did you ever go into the dining-room while the tent was so closed during the day?—I do not recollect.

At what hour were you in the habit of leaving the dining-room in the evening?—Eight or nine o'clock; I should think it might have been half-past nine.

At what hour were you in the habit of returning to the dining-room in the morning?—I should think we breakfasted about ten.

Did you ever, on any occasion, enter the dining-room between the hours of eight or nine in the evening and ten in the morning?—To go up that ladder, I must have frequently gone through the dining-room to go up that ladder on deck.

Could not you have gone on deck without passing up that ladder?—O yes, there was another passage; in fact, I believe there were two other passages.

You have said you were not in the habit of remaining in the dining-room after eight or nine in the evening, and that you were not in the habit of returning to the dining-room till breakfast time in the morning; did you return to the dining-room after you had left it at eight or nine in the evening, and before you returned to it to breakfast?—Only on the occasion of going upon deck after supper; to go on deck I have gone up that ladder.

What was the supper hour?—There was no hour fixed precisely; eight, or half-past eight, or nine o'clock, as nearly as I can recollect from the time that has elapsed since.

Are you to be understood to say, that after supper you did not return to the dining-room till breakfast, except for the purpose of going up that ladder on deck?—I had no other occasion in the dining-room, but the going on deck.

What is the latest hour at which you ever passed through the dining-room?—At night I cannot say exactly to the hour; it might have been, as I have said before, as late as ten, or half-past ten, that I have gone up the ladder; sometimes the tent was closed later than at other times, I cannot say to half an hour.

Did you ever enter the dining-room after you knew the tent was closed?—No, I should have gone up the ladder.

Endeavour to give a more distinct answer?—I do not recollect to have ever entered the dining-room after the tent was closed, knowing it to be closed.

Between the hour of half after ten at night, and the time at which you returned to the dining-room in the morning, you had no means whatever of knowing whether the hatchway was closed or not?—I cannot know that; I was asleep, I was in bed, the thing might have been done when I was asleep, but I do not believe it ever was.

Then, in answer to a question yesterday, when you said you thought there was no impropriety in her Majesty's sleeping under the same tent with a male, because the hatchway and the doors below were open, you were assuming as facts what you were not acquainted with?

Mr. Brougham said he was extremely reluctant to object to any question, but this was really no question at all; it was putting the opinion of their lordships in the shape of a proposition to the witness.

The Lord-Chancellor said that the question ought to be stated in the words of the witness.

The shorthand-writer then read the following extract from the evidence given yesterday:—

"Are you to be understood to say distinctly that you do not conceive that there is any impropriety in a male person sleeping in the same tent, the lights being out, with a female?—From the manner that the hatchway was open, and all the doors below, there was no mystery in it whatever."

Have you any personal knowledge that the hatchway and the doors were always open?—I have always seen the door of the dining-room

open, and as I stated before, I ran up the ladder at a late hour, the hatchway was open certainly, and I do not know that ever it had been shut.

Earl Grey.—Have you ever seen the tent so closed during the day, that any part of the crew passing might not have seen who were within?—No, I never did.

The Earl of Winchelsea.—You have said, that you went up the ladder at a late hour of the night, what do you mean by the term late, how late was it?—Between the space after supper, and the ordinary time for closing the tent on deck; I have said, I believe, ten o'clock, but I may be out half an hour, or even an hour, I cannot be positive.

Do you mean to say, that from that hour, ten at night, till ten in the morning, the tent remained quite undisturbed?—I have never seen it touched after that time; I have been in my bed, and when I have come up in the morning (I am rather a late riser), it was always open.

Do you know, of your own knowledge, that the hatches were not within the tent?—To my knowledge they were not within the tent.

The Lord-Chancellor.—Do you mean that you know they were not within the tent, or that you have no knowledge that they were within the tent?—I have no knowledge that they were within the tent.

Lord Auckland.—Did you write your own challenge to Baron Ompteda?—I did.

It was your own composition?—My own composition.

Are you well acquainted with the French language?—I wrote it in English.

Was it sent in English?—It was sent in English.

Did you give any copies of it, or know of any copies being given?—I do not recollect having given any copies of it.

The Earl of Mansfield.—Was there a companion to the hatchway?—There was not.

No protection at all?—No companion, it was quite open.

Were the rest of the suite in the habit of using that ladder in the day-time?—Yes, they were.

Earl Grosvenor.—If her Royal Highness had been so outrageously indecent as to suffer herself to be kissing Bergami in the presence of the master and mate, I ask you whether it would not have been the cause of conversation among all on board?

(Several Lords cried "No, no.")

The Lord-Chancellor.—If one witness swear to a fact, you may call twenty witnesses to give their opinion that it was not true.

Earl Grosvenor.—I ask the witness as to his belief, which has been often asked upon other points.

The Earl of Liverpool.—The witness may be asked his belief as to where Bergami slept, because he may have known where every one else slept, and thence have reason to believe where Bergami slept. I give that as an

instance where belief is evidence; but as to belief upon a point on which he has no means to form any belief, it cannot be evidence.

Earl Grosvenor.—I only ask the witness whether such a thing could have occurred without coming to his knowledge.

(A general cry of "Read the question," which was accordingly done.)

Earl Grosvenor.—Let it be put in this form:—Whether he believes it could have happened without coming to his knowledge?

The Lord-Chancellor.—I am of opinion that the question cannot be put.

Earl Grosvenor did not press it.

Lord Somers.—You have stated that you have been a long time in her Royal Highness's service, and that, in your opinion, the favours and kindness of her Royal Highness to Bergami proceeded from proper, and not improper motives. I wish to know whether, when the mother, the child, and other relations of Bergami were admitted to her Royal Highness's table, you can assign any reason why the wife of Bergami was not there as the natural nurse of her own little child?

(Cries of "Read the question.")

Mr. Gurney read it.

The Lord-Chancellor.—In the first place it appears to me doubtful whether the witness has stated so much as is assumed in the first part of the question; and then, if the question were itself proper, the only form would be, if he ever heard her Royal Highness give any reason.

Mr. Brougham.—My lords, there is, besides, no evidence that the wife of Bergami was the mother of the child. Not a word of evidence has been given to that effect.

The Lord-Chancellor.—I beg leave to offer here a general observation to your lordships. I submit to your lordships whether the witnesses ought to be made the means of reasoning upon the evidence. The witnesses are to speak to facts. It belongs to your lordships to reason upon those facts.

Viscount Clifden.—Was not the Princess, in fact, extremely fatigued by her voyage from Jaffa to Syracuse, and extremely impatient to get ashore; and did she not complain, her legs being swelled, as a person who had not been abed?—I perfectly recollect the fact.

The Earl of Lauderdale.—Do you mean that you recollect her Royal Highness's legs being swelled?—I never saw her Royal Highness's legs.

Do you then mean that her Royal Highness told you her legs

were swelled?—She did, in talking of the excessive fatigue of being on deck; I forget how many days now, but it must have been near forty days, or more; she said that her legs were excessively swelled.

Mr. Brougham.—I beg leave to offer here a remark, with all submission, to your lordships. I don't complain of any inquiries that your lordships may be disposed to make; but the complaint I make, with all submission, is, that the effect of an examination is destroyed by the manner in which it is interrupted. When the witness gives half an answer to one noble lord, another noble lord puts then another question. The first question is not answered by the witness, and no part of the answer is read by the shorthand-writer, when a noble lord interrupts the answer by another question. Nothing can be more unfair than thus to ask a second question on a part of the first question; for the new question may lead away the attention of the witness, and it may be forgotten to get any answer at all to the first question.

The Lord-Chancellor.—Mr. Brougham, it is impossible to avoid that, when the answer of the witness is not heard. Not one lord in twenty has heard a single answer given by the witness. Mr. Hownam must speak out, as he would on board a ship.

The Earl of Lauderdale.—Have you read the evidence, as printed in the newspapers, in this cause?—I have not even read my own evidence of yesterday,

Have you read the evidence of Majochi?—I have.

Have you read the evidence of Demont?—I have.

Have you read the evidence of Sacchi?—Partially, not all.

Were particular passages pointed out to you to read in the evidence of Sacchi?—No, not that I recollect.

How did you select the passages you read in the evidence of Sacchi?—I have selected no passages; I have read them as any one would read them; I do not remember a single passage in Sacchi's evidence; I could not repeat one.

The witness was directed to withdraw.

Mr. Brougham objected to this question; it was assuming a statement which the witness had never made; the witness had said already, that he had partly read the evidence.

The Earl of Lauderdale apprehended that if the question was read it would be found that the witness had answered "that he had partially read it."

The Marquis of Lansdowne thought that the question, as put by the noble earl, was founded upon an erroneous assumption.

The Earl of Lauderdale observed, that the witness had

said that he had read the evidence partially. What was the inference to be drawn from this, except that he had read particular parts, and he had therefore asked what parts he had read. Those parts must have been pointed out, or they must have been selected by himself.

The Marquis of Lansdowne.—I read the paper this morning without making any selection of parts.

The witness was again called in.

The Earl of Lauderdale.—Are you a knight of the Order of St. Caroline?—I am.

Have you a diploma as such?—I have.

Can you produce that diploma?—I can.

You have said that you arrived at Trieste at noon, and that you quitted next evening, I think, between six and seven o'clock?——I think I said between five and six.

Does your recollection lead you to that fact, or does your knowledge of that fact depend totally upon the letter you had written to your wife, which you have in your hand?—I had already fixed upon twenty-four hours being about the time we were at Trieste, and I only found the letter after I had so fixed my opinion.

Do you recollect any thing passing at Trieste about her Royal Highness endeavouring to obtain a sum of money?—At Trieste I do not even know that she sent for her banker; she may have sent for her banker, but I do not know any thing of it; I do not recollect any thing of the sort.

You have said you first saw Bergami at dinner with her Royal Highness in a courier's dress at Bellinzona, did Bergami on that occasion come into the room with her Royal Highness?—No, I think he was in the room, and her Royal Highness desired him to sit down.

Did he sit on that occasion next her Royal Highness?—I cannot recollect that; I do not recollect that.

Do not you recollect where Bergami sat, in a courier's dress, the first time you had ever seen him at her Royal Highness's table?—I do not recollect it, or I would say so.

Do you remember whether her Royal Highness spoke to him in the course of the dinner?—She may have spoken to him, but I do not recollect the fact; I do not recollect her saying any thing particular to him.

Do you remember speaking to him yourself?—No, I do not.

Did not Bergami wait at table when you dined with her Royal Highness?—At Genoa; after Genoa I do not recollect that he ever did.

Have not Louis Bergami, and the cousins of Bergami, waited at table when you dined with her Royal Highness?—Yes, they have.

Have you not seen, at her Royal Highness's table, the brother, the sister, the mother, and cousins of Bergami?—I do not recollect the cousins; I have seen the former ones, but not the cousins at table, I think.

Did you never see the cousin that was an accomptant at table?—No, I have never seen him at table.

Did you ever see Bergami's wife at table with her Royal Highness?—I never saw her at all.

Were you ever at the Villa d'Este or the Villa Bergami when her yal Highness was not there?—I think I went once to the Barona h Bergami.

Recollecting that you have dined at her Royal Highness's table h Bergami, whom you have seen serve at her Royal Highness's le, with Louis Bergami, who has served you at her Royal Highs's table, with Bergami's sister, and with his mother; and when u recollect the circumstance further, that you have sworn to your ief that Bergami was under the tent with her Royal Highness at ht, between Jaffa and Capo d'Anza; do you persevere in swearing n your oath, that you have seen her Royal Highness do nothing roper or unbecoming of her station?—I speak for myself; I had greater claim to sitting at her Royal Highness's table than either of se people; I have seen people sitting at her Royal Highness's table ile their fathers have been waiting at table; and I never saw any ng in the conduct of her Royal Highness, knowing the way she ats every body, to authorize such an opinion.

Did you ever wait at her Royal Highness's table?—Never.

Mr. Brougham.—A lieutenant in his Majesty's navy asked if he ever waited at table!

The Lord-Chancellor.—Mr. Brougham, object to the estion if you think it improper, but you are not to ake such observations if a question offends you.

The Earl of Lauderdale.—I am the last that would ve asked such a question, had not the witness said that rgami and his relations had as great a claim as he to ; at her Royal Highness's table.

Have any of your relations sat at her Majesty's table?—I do not ieve they ever did.

The Earl of Lauderdale.—I wish the evidence given the witness yesterday, respecting the entertainments the Barona, to be read to him.

The Earl of Darlington suggested, that while the evince sought was getting ready, the witness should be commodated with a chair, as he had stood under exaination nearly four hours of this day, the whole of sterday, and part of the preceding day.

The Earl of Lauderdale.— Did you ever see Mr. Vallotti Bergami ting at her Royal Highness's table?—I do not know him by that me, I recollect an uncle.

What was that uncle?—I do not know what he was.

But you recollect seeing Bergami's uncle sit at table with her Royal ighness?—I have heard it was his uncle.

The following extract was read from the evidence of sterday:—

"What was the nature of the entertainments given by her Royal ghness at the Barona?—There were no entertainments except to farmer's daughters, to amuse in fact the household.

"Was the time of which you are speaking carnival time?—It was.

"Did you ever see at those entertainments the wives of persons well as their *daughters?*—The eldest of the daughters was mar-

ried; I do not recollect if any more were married, but I recollect one was married.

" The question does not refer to any particular family; but did the persons who attended at those entertainments bring their wives as well as their daughters?—I have seen the wife of the Chevalier Tamasia and his daughters, the wife of Professor Mocatti, and the wife of Baron Cavaletti.

" Who was the Chevalier Tamasia?—He had been prefect of Como for some years.

" Were the other persons whom you have named, persons who resided in the neighbourhood?—Yes, they were, with the exception of the Professor Mocatti, who was of Como.

" Do you recollect whether the clergyman of the place was there or not?—I have seen him frequently; at the dance, I cannot say.

" Do you mean, that you have seen him frequently visiting her Royal Highness?—Frequently."

The Earl of Lauderdale.—Who is Doctor Mocatti?—He is professor of physic at Como, and I believe president of the college.

What college?—There is a college, the college of Como, I think.

Is physic taught at Como?—I think he is the professor of physic he is called the Professor Mocatti.

Is he not the practising doctor in that place?—He is.

Who is Mr. Cavaletti?—Cavaletti was equerry to the viceroy of Italy, Prince Eugene, and I believe he was lately in the service of Napoleon Buonaparte; and was at the battle of Waterloo, in his suite.

Was he often at her Royal Highness's house?—Very often.

Besides Mocatti and Cavaletti, and the Chevalier Tamasia, whom else can you name that visited at that time?—At the dances I do not recollect any other name.

Do you conceive a courier and a lieutenant in his Majesty's navy equally entitled to sit down at her Royal Highness's table?—Any body that should sit down at her Royal Highness's table, by her command, would authorize, I believe, a person of higher rank than a lieutenant of the navy to sit down with him.

The Duke of Clarence.—Early in your examination yesterday you entered into the minute circumstances of your father, was your father ever in the service of any other person than the royal family?—I can only speak from report, I believe he has been in the service of Lady Charlotte Finch in his late Majesty's household.

You having stated that her Royal Highness embarked in Sicily to go up to the Levant and to return in her Royal Highness's suite except yourself and Lieutenant Flinn was there any body in her suite used to the sea?—None that I know of, except one English sailor.

Have you a personal knowledge of the hatchway being open in the interval from the time at which you left the dining-room till the time at which you returned to it?—I have a thorough conviction that it never was shut.

Have you any personal knowledge of the fact?—From seeing it open when I ran up.

Could not the hatchway be closed without removing the ladder?—To have closed the hatchway the tent must have been opened, as the tent covered the hatchway.

Where was the cover of the hatchway itself?—The hatchway itself

was on the deck of the vessel; I do not know in what part of the deck the hatches were kept, whether they were on deck or down below.

Did you ever see the hatches under the tent?—No, I never did.

Who slept in the dining-room in the voyage from Jaffa to Syracuse?—I do not know; I have never seen any body sleeping there; I have seen a bed there in the day time, rolled up, but I never saw any body sleeping there; I do not know who slept there.

Where did Majochi sleep?—He ought to have slept down in the hold, where the footmen slept; I never saw him sleeping down in the hold, because I never was down in the hold to see them.

Did Maurice Credè continue in the service of her Royal Highness after you saw him upon his knees?—He continued in the service of her Royal Highness as far as Nuremburg, on the journey to Vienna.

How long was that?—It was in the beginning of the month of November that this circumstance happened, and I think it was the latter end of March or the beginning of April, in the following year, that we were at Nuremburg.

Where did he leave her Royal Highness's service?—Her Royal Highness, I believe, gave him as a courier to her aunt, the Margravine of Bayreuth.

Was the tent closed during the day-time by the orders of Count Schiavini?—It may have been; I do not know.

Was it ever completely closed as at night?—I never saw it so.

Can you take upon yourself to say, that any one who swore that it was so closed would have sworn a falsehood?—I cannot say that; not having seen it myself, I cannot answer for what another person has seen.

Did you know from the beginning the time that her Royal Highness slept in the tent on deck?—It was from Jaffa.

Do I understand you rightly, that from the first night that her Royal Highness slept in the tent, you were fully aware of that circumstance?—I was aware of it as much as I could be aware of it, without seeing her Royal Highness actually on her sofa.

You being aware that no one of her Royal Highness's suite was used to the sea except yourself and Lieutenant Flinn, did you offer to afford your assistance in sleeping under that tent with her Royal Highness?—I did not.

You have stated in your evidence that an English seaman was discharged; where was he discharged?—At Athens.

How long had he been on board the polacca?—Does the question mean actually on board the polacca, or belonging to the suite of her Royal Highness?

Belonging to the suite of her Royal Highness?—I should think about two months.

Do you know the reason of the man's being discharged?—It was in consequence of a quarrel, and, I believe, a fight with the cook.

There was no other reason than that for his discharge?—I never heard of any.

Lord Calthorpe.—When you state that you have seen the tent during the day partially closed, do you remember on any one occasion, while that tent was so closed, having seen Bergami?—I never recollect the tent so closed, but when it was closed in consequence of her Royal Highness having fallen asleep, as I said before, I have closed it partially; but with the exception of that, I do not recollect any other circumstance that should cause it to be closed.

Do you remember at any time, when it was so closed, having seen Bergami?—I do not.

You were understood to have stated, that when you went up on the sea breaking into the polacca, you are quite sure there was no light in the tent?—I do not recollect having mentioned any thing about a light on the occasion of the sea breaking into the tent.

Do you recollect whether the tent was usually open in one part of it more than another?—No, I do not.

Do you remember at any time having seen Bergami in a blue mantle?—I do not recollect ever having seen him in a blue mantle.

When you witnessed that dance of Mahomet in the court of the Villa d'Este, and when you saw her Royal Highness looking out of the window, can you assert that it was a dance of that kind that a woman of virtue or of common delicacy of mind could behold without disgust —It was not more indecent in my opinion than the Spanish bolero.

Were you not commissioned by her Royal Highness to convey some message to Captain Pechell on board the Clorinde?—I was.

Do you remember what the instructions were which her Royal Highness gave you upon that occasion?—I do not recollect them word for word, but the purport of it was that she would keep her own table in fact.

Do you recollect whether those instructions were coupled with any observations upon the part of her Royal Highness upon Captain Pechell's conduct towards her?—I do not.

You have said in a former part of your evidence, that her Royal Highness treated all her servants with a great degree of kindness and affability?—Yes.

Should you have felt that that affability justified you in making any remarks to her Royal Highness, if you had seen any impropriety in her conduct, which you might think likely to be injurious to her reputation

The House appeared to concur in the opinion of one of the peers, who exclaimed, "That question cannot be put." It was accordingly withdrawn.

Do you recollect upon any occasion when her Royal Highness has given any directions respecting her route in travelling, or the inns to which she was going, suggesting to her any alterations in that route which you thought it desirable for her to make?—I do not recollect ever such an instance.

Who generally arranged the route that her Royal Highness was to take?—I do not know, I imagine it was her Royal Highness herself.

Do you remember ever having heard that any spies were set upon the conduct of her Royal Highness the Princess of Wales? or have you reason to think that any person was employed by her who would have taken that advantage?

This question, in compliance with a cry of "withdraw," was withdrawn before it was answered.

Do you know whether any spies were ever employed to watch her Royal Highness's conduct?—Only from the confession of Maurice Credè.

It was told the witness that this answer would not be permitted: but he said he could only speak, as upon this point, from that information.

Earl Grosvenor.—Do you know that the Duke and Duchess of

Torlonia have dined at any time with her Royal Highness?—I think they have.

Do you know whether the nephew of the Duchess of Torlonia, Carlo Forti, waited at that time at table?—It is the first time I have ever heard that Carlo Forti was nephew to the Duchess of Torlonia.

Do you know whether Carlo waited at the time at the table?—Carlo Forti never waited at table.

Lord Auckland.—What was the nature of the dress worn by Bergami as a courier?—I think it was a bottle green and gold, turned up with scarlet.

Was it what you would call a handsome dress?—A very handsome dress.

Did it resemble a hussar's dress?—No, not a hussar's dress; it was richly embroidered with Brandenburghs, I think they are called.

Lord Duncannon.—Did not the swell of the sea occasionally make female attendance absolutely impossible?—When there was any sea, that the vessel was in motion, the female attendants were as helpless, if I may use the term, as her Royal Highness herself.

Is it to be understood that male attendants were absolutely and indispensably necessary, both by day and by night?—I should think, that for any thing her Royal Highness would want, there should be a male attendant that could procure it for her.

Was there any steward, whose duty it was to attend to the cabin, and also to the deck?—None in particular.

The Earl of Rosebery.—After the sea struck the tent, were the hatches closed?—I think they were.

Where were the hatches found for that purpose?—I do not recollect that, I do not know where they were.

Can you mention where you ever saw the hatches lying?—I cannot call that to remembrance; I do not recollect seeing them in any particular place.

Did you ever see them at all?—I have seen the hatches, the sky-lights; I have seen them on the deck, but at what spot I cannot tell.

Whereabout?—On the deck.

Were they a grating, or closed?—They were sky-lights.

The Duke of Richmond.—You have stated, that the first time you saw Bergami dine with the Princess of Wales in his courier's dress, you do not recollect where he sat; will you swear he did not sit next to her Royal Highness?—I do not recollect the circumstance, I have said so before.

If Bergami had sat next to her Royal Highness, do you think you should not have recollected the circumstance?—I do not recollect it, or I would say so at once.

The following were put at the request of the *Attorney-General*:—

Had you not a Genoese servant of the name of Francesco, attending you at Ruffinelli?—I had a Genoese servant, of the name of Francesco, but he was not my servant when we were at Ruffinelli.

Was he then a servant of her Royal Highness, and wearing her Royal Highness's livery?—He was.

Do you know where that servant now is?—No, I do not; I have seen him in London, but I do not know where he is now.

A Peer.—When did you last see him in London?—I am not quite certain as to seeing him since I came back from France the last time, but I think I have.

Where did you see him when you last saw him?—The last tim saw him was at Mr. Vizard's.

The witness having withdrawn,

Mr. Brougham was desirous that their lordships shou have him recalled, there being, he thought, some dou upon their lordships' mind, perhaps, about the hatch being closed when the sea struck the vessel. It mig be possibly, more satisfactory to their lordships to all him to be called in, and explain more fully his meanii the technical expression of which had not, very like made it perfectly clear to the House.

Their lordships did not think this necessary; and

GRANVILLE SHARP, Esq. was then called in, a having been sworn, was examined by *Mr. Denman.*

Describe to the House what situation you hold in life?—I h been in the East India Company's service nine years, in the army.

Have you resided in the East Indies?—Yes.

How long have you lived there?—Above nine years, almost ter

When did you return from India?—About three years ago.

When you resided there, did you ever see the Moorish dance cal "Dema Dema?"—I have seen the Moorish dance, but did not kr it to be called by that name.

Was it accompanied by any expressions?—Yes.

Do you remember what those expressions were, the sounds?—I ferent unmeaning sounds, some of which I cannot remember?—I not know that I can remember any.

Is there any thing indecent in this Moorish dance; any thing u for women to witness?—Certainly not.

Whereabouts are the hands held during the dance?—The hands thrown about in various positions, generally above the head.

Are the knees bent; is there any courtesying?—Yes, it is acc panied by courtesying throughout.

Do the unmeaning sounds you describe form a tune that the dar dances to?—Yes, they sing it to a tune.

Where have you seen this, at Calcutta?—I have seen it at Calcu

In what places?—In the government house.

Who was governor at the time?—The Marquess of Hastings.

Was his excellency present while this dance was exhibited?—He v

Was the marchioness there?—She was.

And other ladies?—Yes, other ladies.

Do you remember whether the Bishop of Calcutta was present Yes, the Bishop of Calcutta was present.

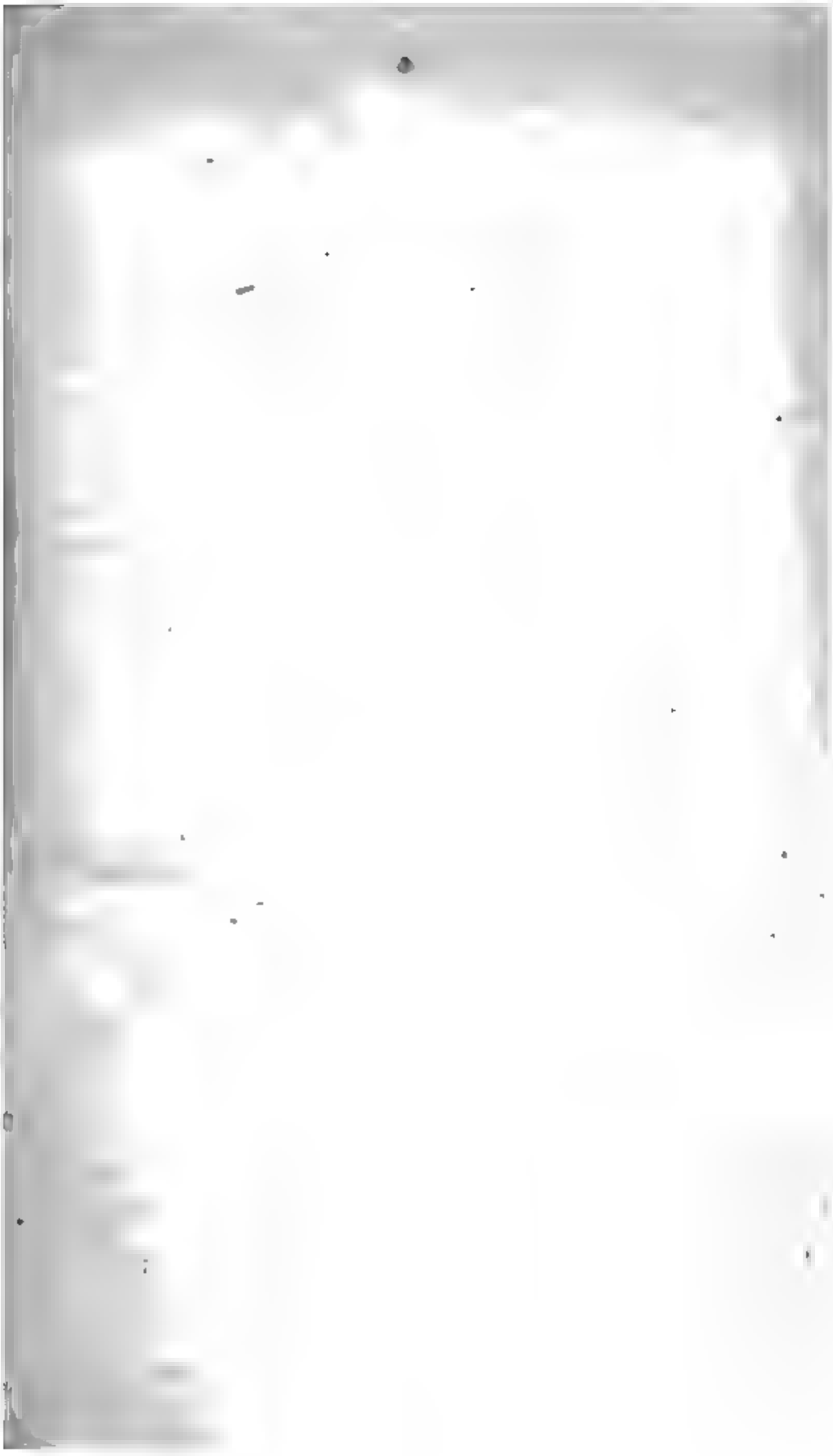
Was his lady there?—Yes, she was.

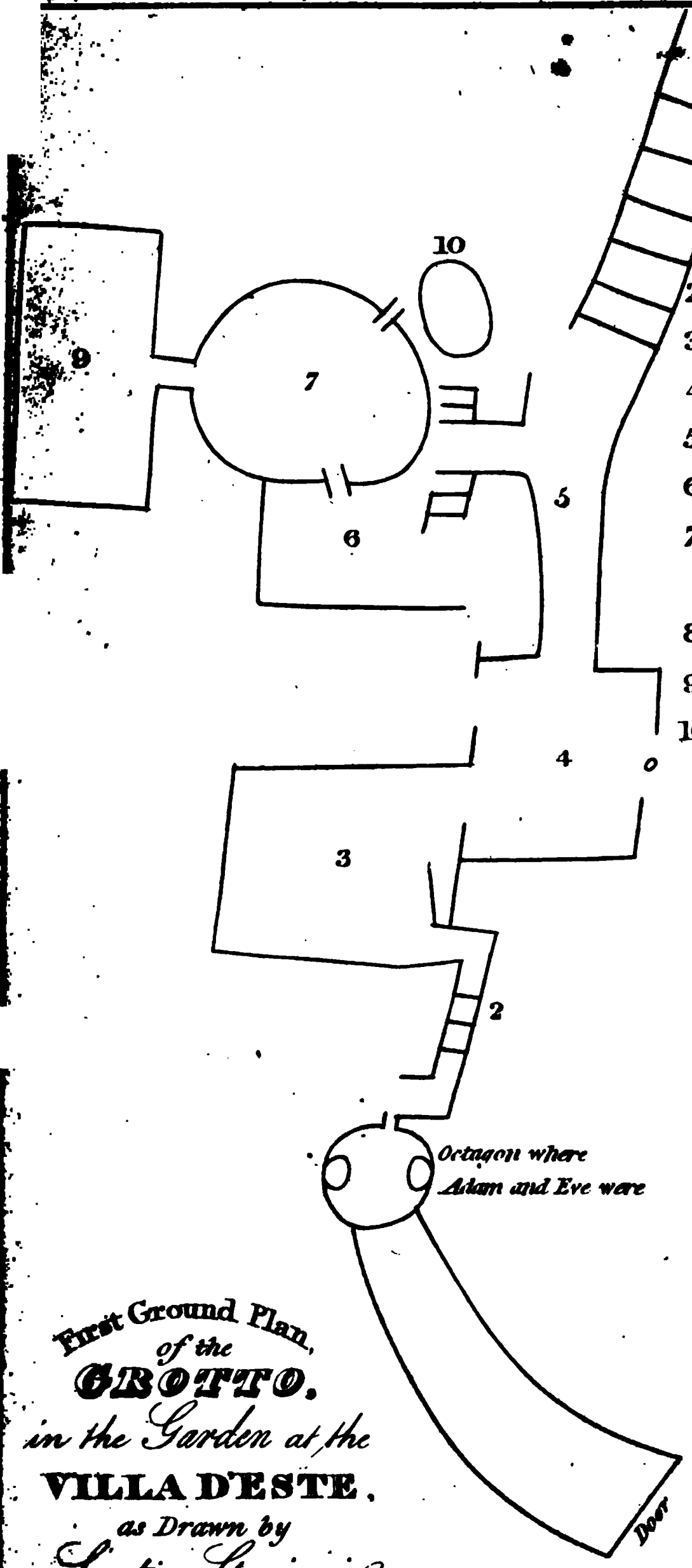
It is not asked whether there was any thing indecent in the da that was so exhibited?—Certainly nothing.

That was the ordinary Moorish dance?—That was the ordin Moorish dance.

Cross-examined by *Mr. Parke.*—There are many other kinds dances danced in the East Indies, are there not?—They are all in t same character; sometimes the dances are quicker, sometimes slow

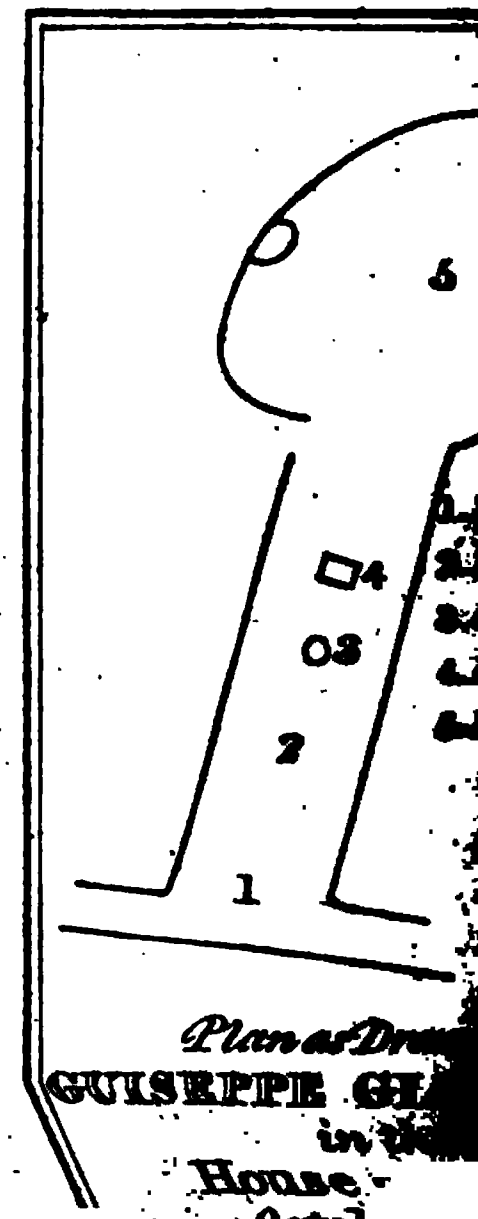
How many persons danced at the dance you describe?—One pers at *that* particular dance I mean.





2. *A Staircase*.....
3. *Room*.....
4. *Room*.....
5. *Passage*.....
6. *Room*.....
7. *Octagon in which the*
Cornice was made.....
8. *A Staircase leading to a*
9. *Room*.....
10. *Octagon*.....

First Ground Plan,
of the
GROTTO.
in the Garden at the
VILLA D'ESTE.
as Drawn by
Santino Gugiari
in the
House of Lords.
October 12th
1820.



Plan as Dra
GUISEPPE GI
in
House
Oc

Are there any dances at which ladies are not present?—I never head of any; I believe not.

The witness was directed to withdraw.

SANTINO GUGIARI was then called in, and having been sworn, was examined by *Dr. Lushington*, through the interpretation of the *Marchese di Spineto*.

Were you ever in the service of her Royal Highness the Princess of Wales?—I have been.

In what capacity?—Factor.

What were the duties you performed in that situation?—To keep a watch upon the working people; to mark down their accounts, and to pay them on the Saturday; to take care and distribute the wine to the family, and all other services which the masters commanded me in regard to the house.

Where was it you performed those duties?—In the Villa d'Este, in the gardens of the Villa d'Este, in the vineyards, &c.

How long did you continue to perform those services?—I was born in that place, and when I was eighteen years old I undertook the office of factor.

How long were you in the service of the Princess?—From the moment she bought the Villa till she left the place.

Do you know Luigi Galdini?—I do.

What is he?—He is a mason by trade.

Did you ever employ him?—I have.

At what wages per day?—Two livres of Milan per day.

Do you know a person of the name of Brusa?—I do not.

Do you know a person of the name of Raggazoni?—I have heard that he was a mason who worked at the Villa, perhaps I may know him by sight.

Do you know Paolo Raggazoni?—I do not.

Do you remember the grotto at the Villa d'Este?—I do.

Do you remember there being at the Villa d'Este two statues of Adam and Eve?—I do.

Did they ever stand in that grotto?—They were in the grotto.

In what room in that grotto did they stand?—In the first rotunda or octagon.

Was there another rotunda or octagon?—In that grotto?

Yes?—There were two octagonals.

Was any cornice made to the rotunda or octangular room in which those statues stood?—There was not.

Was there any scaffolding erected, or any work done to the cornice in that octangular room where the figures of Adam and Eve stood?—There was not.

Was there any cornice made in any other octangular rooms?—There was.

In both or in one only?—In one alone.

Describe the passage or mode of communication from the room where the statues of Adam and Eve stood, to the octangular room where the cornice was made?—I want some paper. (A sheet of paper being given the witness, he made a drawing.)

The Interpreter.—This is a drawing the witness has made of the grotto; the octagon where the statues of Adam and Eve were, and of the octagon where the

cornice was made, with the corresponding passages and staircases, &c.—The same was delivered in.

Could workmen at work at the cornice in the octangular room by possibility see the statues of Adam and Eve in the room in which you have stated them to have been at the grotto?—They could not.

Why?—Because the passage, the communication, is crooked, and prevents the sight.

Did the statues of Adam and Eve ever stand in any other room in that grotto, except the one you have already stated?—They did not.

Was a cornice made to any other room in the grotto, save the octangular room you have stated, since the Princess came to the Villa d'Este?—It has been made in the highest rotunda that I have marked upon the paper.

Has a cornice been made in any other room in that grotto?—A cornice was made in the two rooms; the rotunda and the square room which I have marked in my drawing.

Could you see the statues of Adam and Eve from either of those rooms in which a cornice was made?—I want a better explanation.

Could you see the statues of Adam and Eve from either of those rooms in which a cornice was made?—No.

When were the statues of Adam and Eve removed from that grotto?—Before the return of her Royal Highness.

Return from whence?—The return from her journey in Turkey.

To what room were those statues removed?—Into one of the Mosaic rooms, which was newly built in the palace.

Had those rooms been finished completely before her Royal Highness returned from the long voyage?—They had.

Were the workmen removed from those rooms before the Princess returned from her long voyage?—Those rooms had been left by all the workmen.

Had the scaffolding been taken away before the Princess returned from her long voyage?—From the Mosaic rooms, yes.

How long before the Princess's return?—About eight or ten days before her arrival.

Were those rooms then fit for the reception of her Royal Highness?—They were.

Was the Mosaic room a round room, or not?—Where the statues were, the room was square.

What was the next room to that where the statues were?—The first roon of the Mosaic rooms, there were the statues; the second was a small oblong cabinet.

Of what shape was the room next beyond the small oblong cabinet?—An octagon, or round room with columns.

Could any person at work in that octagon room see the statues of Adam and Eve?—He could not, because they were by the side of the opening.

Cross-examined by *Mr. Parke*.—How long were you in the service of her Royal Highness?—From the day on which she bought the Villa till the day she left the country.

Were the statues in this octagon you have described when you first went there?—I was born at the Villa d'Este.

Were the statues in the octagon you have described when you first entered into the service of the Princess of Wales?—They were in the grotto.

Were they in the same part of the grotto you have just described?—They were.

Was that the largest room in the grotto that they were in?—In th first octagon that I have mentioned,

Were they in the largest room in that grotto?—I will not say th largest, because the square rooms are somewhat greater than the others

Then the square rooms you describe are only a little larger than th octagon?—They were.

And only a little larger?—The exact dimensions properly I do no know, but they were larger than the rotunda.

How many rooms were there in this grotto?—Six, comprising th round rooms and the square rooms.

Were they all on the same story?—They were not.

Was there one above the other?—A person mounts the steps, then comes a level, then come more steps, and then another level.

There was a few steps from one place to another, were there?—In some places the steps were few, in some others there were many.

How high was the floor from one part of the grotto above the other i —In the height of the first room there were ten or eleven steps, which constituted the height of the room, from the rotunda where the statue were, to the room above.

Do you mean that in going out of the rotunda to the next room, you would pass up eleven steps?—About.

To what purposes were the different rooms of this grotto applied?—To no purposes, except that of seeing a subterraneous place.

Was the room you have described the only room that had statues in it?—The second room had a small statue representing Artemisia weeping on a tomb.

Was that the only room, besides the octagonal room you have mentioned, that had statues in it?—It was the only one.

Were the rooms open to each other?—After the steps.

After the steps, they were open to each other?—The two rooms communicated together, the first room was the rotunda, in which there were the statues; on mounting the steps came the second room, where Artemisia was; after the second room, on the same level, there was another room, a Gothic room; there is a passage, and then one step on the right, after two or three steps there is a rotunda; after this rotunda, on the same level, there is a second rotunda, larger, where a cornice was made; after that rotunda comes a half-square room.

Then the two rotundas you have mentioned were on the right, after passing through the two first rooms?—You turned on the left and then you turned on the right.

Then you passed through one rotunda to go into the other?—Yes, but a person may pass also by the left; there are two openings.

Were all these passages open?—They were open.

Were there no doors at all?—No.

No doors in any part of those grottoes?—There were at the beginning and the end two iron gratings, a species of gates.

Could a person see through those gratings or gates?—Yes, because they are open; the divisions are much apart.

Was there a pillar between them for them to rest upon?—They shut up the entrance and the exit.

Did they upon close upon the wall or pillar?—They were attached to the wall.

They *were fixed on* each side into the wall; but what was the

in the middle to support them?—The gates were of one piece, and they shut against the opposite wall.

Were there any pillars in this grotto, in any of the rooms?—There were.

In which of the rooms were these pillars?—In the second room after the rotunda, small columns.

Look again at the plan you have drawn. Looking at that again, will you swear that it is an accurate plan of the place?—I cannot call it exact, because there are not measures or proportion.

How long is it since you came to England?—About ten or eleven days.

Did you come direct from the Villa d'Este?—I did.

Did you see a man employed in the Villa d'Este to take plans of different places?—I have seen several persons belonging to government taking drawings, plans, but this I do not know.

Did you not see an architect of the name of Ratti employed in taking plans at the Villa d'Este?—Yes, I have.

When was it that you saw him?—I cannot mention the exact time.

You are not asked the precise time; did you not see him within a month or six weeks?—It is more; it is about three or four months.

It is three or four months from this time that you saw him?—Yes.

Does Ratti live at Milan, or at Como?—He lives at Milan.

Did you come with any witnesses here?—I did.

How many?—Fourteen.

Did you collect and conduct those witnesses here?—No.

Who was it that did?—The will of those witnesses who came with me.

Did they all pay their own expenses?—They came by their own will; but the expenses were not paid by them, but were defrayed by the order of the Chevalier Vassali.

Did Vassali come with you?—He did not.

Who paid the expenses on the road for those people?—I paid for their victuals.

Of all the fourteen that you brought?—Yes.

Did you apply to any persons to be witnesses for the Queen before you came?—To no one.

Did not you apply to one single person to be a witness?—To no person.

When did you set out to come with those witnesses?—A month last Sunday; I set off on the 10th of September.

Were you examined before you came?—I was.

Where were you examined?—At Milan.

By whom?—The Advocate Codazzi, and an Englishman called Henry.

Did you give the same account to them that you have done to-day?—All that was true I have said.

You are understood to say, all you have said to-day?—No.

Did not you say, you had told all that was true?—Yes.

And you told all that was true to the advocate at Milan?—Yes.

Then did not you tell him all you have said to-day?—I was not questioned as I am questioned here.

Who has examined you since you came here?—A gentleman, an advocate here, I do not know his name.

What was it you were not interrogated about by the advocate at Milan?—There are many things that I have been questioned here, *and that the* advocate at Milan has not questioned me upon.

Did you endeavour to get information from the witnesses that had been examined at Milan before that?—No.

What sum of money do you receive for coming here?—Fifty Napoleons of twenty francs each, for all the company, for all the fifteen.

Have you received any thing for yourself?—I have not.

Are you to receive any thing?—I ask for nothing, but if her Royal Highness will make me a present I will receive it, but I ask for nothing; for I have come here to tell the truth only.

Have you received no promise of any sum of money?—No.

Have you received no promise of any money, though not of a particular sum?—No.

Neither from Vassali, nor Bergami, nor any other person?—No.

Will you swear that you expect nothing?—What have I said before? if they make me a present I will take it; if they do not, I will ask for nothing; I do not claim any thing.

Upon your oath, do you not expect money from some person, in consequence of coming here?—Yes.

Is it to be understood that you will swear you do expect money, or that you will swear you expect none?—I do not understand the question.

Is it to be understood that you will swear you do expect money, or that you will swear you expect none?—I repeat again that I have come to tell the truth without hope of receiving money.

Give a distinct answer to that question, will you swear that you expect no money?—I swear that I do not claim money, but if they should give it to me, I do not refuse it.

Will you say yes or no, will you swear you do not expect money?—No.

How did you travel here, in what way did you travel?—In a carriage.

By post?—By post.

Did you pay your own expenses?—For the expenses of food, but not for the post.

Did you pay for the expense of food out of your own money?—No.

Who gave you the money?—The Chevalier Vassali.

Who paid the posting?—The courier.

What was the name of the courier?—He is called Francis.

What other name?—I do not know his family name.

Examined by the Lords.

Earl Grosvenor.—Are there any other columns in the grotto than those you have described?—There were.

Where were they?—There is one between two windows in the third room.

Was there any pillars in the grotto, from which it was possible to see the statues of Adam and Eve?—There was no column to enable a person to see Adam and Eve.

Was there any column or pilaster from which a person might see the statues of Adam and Eve?—There is a pilaster before the door with a column before the pilaster, from which a person may see the statues of Adam and Eve.

Mark whereabouts this pilaster or column was?—I have not said, can be seen, but I have said, that before the door there is a pilaster, and before *the pilaster there is* a column.

A doubt being suggested, whether the answer to the last question but one was rightly translated, the interpreter was desired to give it in the words of the witness.

The Interpreter.—As far as I can recollect, and I think Mr. Cohen agrees with me that the question put by me to the witness was this, "Was there some pilaster or some column from which those statues of Adam and Eve could be seen—Vi era qualche pilastro o qualche colonna da cui si potevano vedere questre statue di Adamo e di Eva?" to which he answered, "To see those statues of Adam and Eve?" I said, "Yes;" then the witness said, "There was a pilaster before the door, and a column before this pilaster—Per vedere queste statue di Adamo e di Eva." On my saying "Yes" he proceeded, "Vi era un pilastro avanti la porta ed una colonna avanti questo pilastro."

The interpretation was explained to the witness by the interpreter, and he was desired to state whether it was correct.

That is right; but as I had not understood well your question, I put that to see, and then I said that there was a pilaster and a column.

Can you say how far that pilaster was from the statues of Adam and Eve?—If I could see the plan which I have drawn, I could show the thing better.

The plan was handed to the witness.

Not this, but one that is more clear than this.

What plan do you mean?

Doctor Lushington stated, that the plan referred to by the witness had been drawn by the witness before he came into the House; but wishing that the witness should not appear to do it under the dictation of any person, but from his own recollection, he had not produced that plan.

The Earl of Lauderdale thought that the regular course of proceeding would be to call on the witness, in the first instance, to swear to the truth and correctness of his plan.

A plan was shown to the witness.

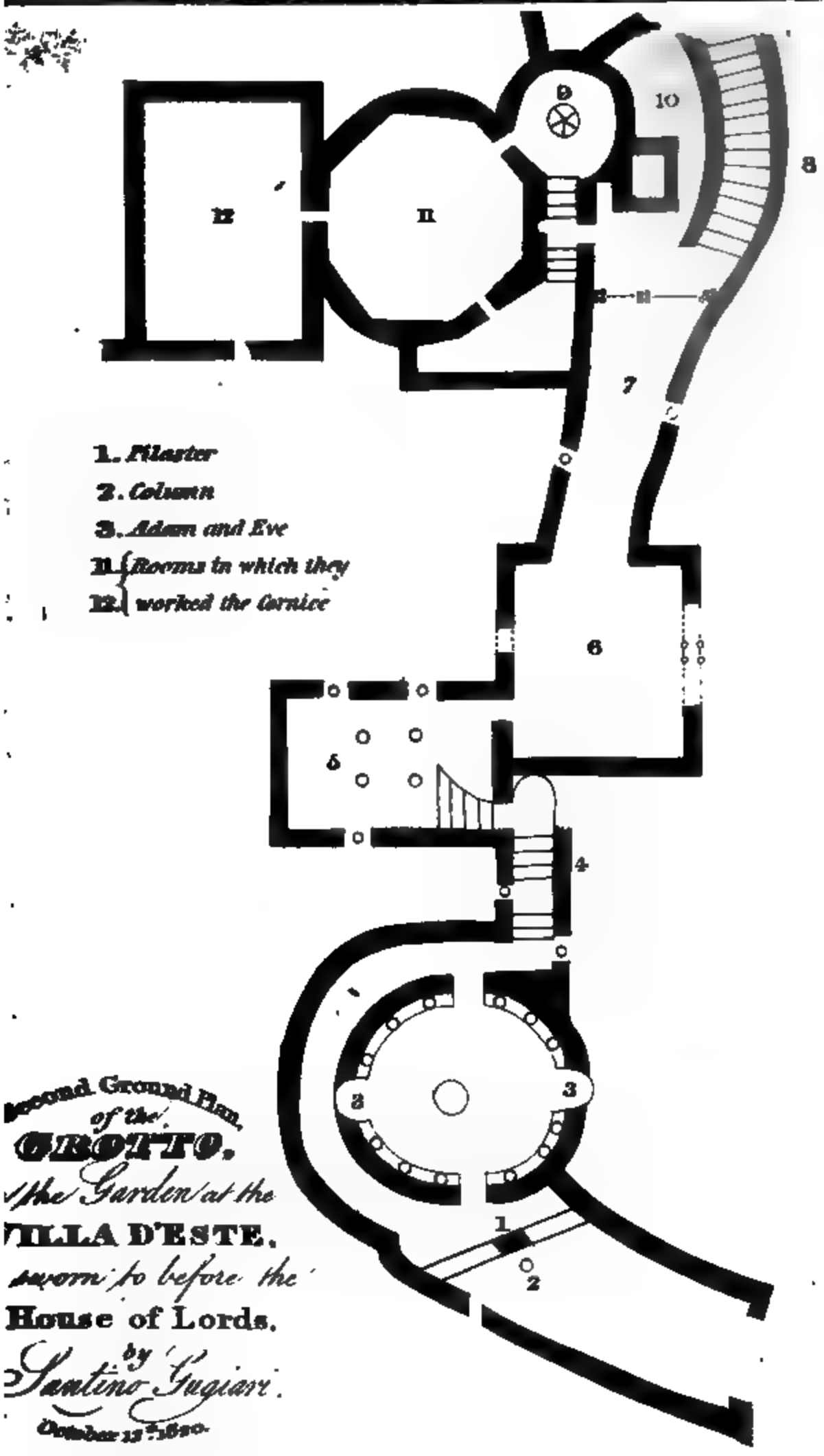
Earl Grosvenor.—Is that plan made by yourself?—It is.

Is it correct?—It is not exact in the measure, but it is a representation of the grotto as it is, except the dimensions.

The counsel in support of the bill were asked, whether they wished to put any question upon this plan?

Mr. Parke.—When was this plan made?—About an hour, perhaps half an hour, before I came here.

Earl Grosvenor.—Is it, as far as you can recollect, a correct plan of the rooms?—It is.



Second Ground Plan,
of the
GROTTO,
of the Garden at the
VILLA D'ESTE,
sworn to before the
House of Lords,
by
Santino Gugiari.
October 13th 1820.

Published by J. Robins & Co. Ray Lane, Paternoster Row, Nov. 1st 1820.

in was delivered in.
say, whether a person placed behind that pilaster could
es of Adam and Eve?—I believe not, because the pilas-
f the room, and the statues of Adam and Eve are the
, and the room being round, a person cannot see them.
ness was directed to mark upon the plan where
r was, which he did.
passage, which you have here described, leading to the
nnected with the rooms in which the persons were working
ces, or were those rooms on the other side of the build-
le might go inside as well as outside.
passage, which you have here described, leading to the
nected with the rooms in which the persons were working
ces, or were those rooms on the other side of the build-
the convenience of carrying in materials, they went out-
e the doors were too narrow to pass.
the room No. 6, where they were working on the cornice?

ere they working on the cornice?—They were working on
in No. 11 and No. 12.
of Blessington.—Had those statues of Adam and Eve any
und them?—It represented a vine leaf, which was made
was painted green.
y hung upon a wire?—A brass wire.
vine leaf moveable by this wire?—It was.
those statues vine leaves?—Both.
y were moved into this Mosaic room, did those vine leaves
he figures?—They remained, and are still there.
make the plan you made just before you came into this
ly from memory?—I did.
tness was directed to withdraw.
PPE GIAROLINI was then called in, and having
rn, was examined by *Mr. Williams*, through the
tion of the *Marchese di Spineto*.
at place do you come?—I came from Milan.
siness do you follow?—A master mason.
u ever been employed by the Princess of Wales on the
?—I have.
know a person of the name of Raggazoni?—I do.
a master workman or a common workman?—A daily

any men under his employ at the Villa d'Este?—No, I
a piece of work to seven or eight companions, and they
ther to be paid for their work.
know the grotto at the Villa d'Este?—I do.
remember at any time any work being done upon that
do.
the work to which you allude, when you say you let out
o Raggazoni and some others?—They worked by the day,
piece; it was another time that I gave them this work.
remember any cornice work being done in any part of the
do.
remember there being any statues of Adam and Eve in any
grotto?—I do recollect.

Was there any cornice work done in the room where the statues of Adam and Eve were?—No, nothing at all.

Was there any cornice work done in any other part of the grotto, according to your memory?—At the top, where there was an octangular room, there was another room, which I had built myself, and they worked in no other room but that.

Were they at work upon the cornice in that room?—Upon the cornice.

That is the work of which you spoke?—It is.

Had they scaffolding up for the purpose?—They had to reach the ceiling.

Has there been any scaffolding put up in any other room or part of the grotto but that?—In no other but those two rooms, the octangular room and the square room.

Did the square room join to the octangular room?—Yes.

Was the square room or the octangular room nearer to the statues?—The octangular room.

From the place where the scaffold was set up in order to work at the cornice, could any person see the statues of Adam and Eve?—In no way could those statues be seen, because the passage is all winding.

Do you mean the passage from the square and octangular rooms towards the room in which the statues stood?—First coming from the octangular room, there comes another room, and then another passage, and then another room where the statues were.

Was the passage you have just described the winding passage to which you have alluded before?—Yes, winding; and there are steps.

Do you know a person of the name of Restelli?—I do.

What is his other name?—Giuseppe; I know no other.

Do you know whether the man is in England; have you seen him in England?—No.

Do you remember to have seen that Restelli before you left Milan?—Before he was away from Milan, when I came.

Do you remember to have seen him at Milan before you came over to England?—Long before; much time before; we have been together, and I have seen him.

At that time do you remember any thing being said by Restelli upon the subject of your having worked for the Princess?

The Solicitor-General begged to know to what part of the evidence of Restelli the question last put was directed—

Mr. Williams.—In pages 226, 234, and 411, of the printed minutes. *(Ch. p. 286, 294, 440.)*

The Solicitor-General objected to any inquiries as to conversation between the witness and a third person. He should be glad to hear any reason why the question was put.

Mr. Williams.—I do not want the conversation between the parties, but I wish to establish the fact of Restelli having applied to the witness to give evidence in this country against the Queen, and tendering him money, or what was equivalent to money, to induce him to do so.

The Solicitor-General.—I object to that, unless my learned friend can show in Restelli's evidence any such

circumstance mentioned, and that the other side relied upon it.

Mr. Williams said, that he apprehended their lordships, for the purposes of justice, would consider it extremely material to ascertain what inducements had been held out to witnesses—what hopes or expectations of profit had been raised in them, in order to make it desirable for them to give evidence in support of the bill. Independent, however, of this general ground, there was a particular reason, in this instance, for allowing the question to be put; for it appeared in several parts of the printed minutes, and from the admission of Restelli himself, that he had been employed by the Milan commission to collect evidence, and that he had actually sent one of the witnesses. These facts appeared on pages 234 and 411 of the printed evidence. *(Ch. p.* 294 and 440.*)* The analogies of the courts below, regarding the responsibility of agents, would not apply in this case; for it was impossible to show that Restelli was agent to the promoter of this measure, whoever it might be. Nobody knew who was the supporter of the bill; it was a mystery not yet solved. There was, however, fixed upon Restelli a degree of activity, or to speak in the language of the law, of agency, which showed that it was very material to inquire into the steps he had taken.

The Lord-Chancellor interrupted the Solicitor-General, who was about to reply, by observing that it was four o'clock, and that the discussion could not, probably, be concluded to-day. Before the counsel withdrew, however, he wished to refer them to page 412 of the printed minutes, *(Ch. p.* 441.*)* where it actually appeared that Restelli had sworn that he had not offered money to any body to become a witness. If so, the other side had a right to contradict him.

Mr. Brougham observed, that Mr. Williams rested his question upon two grounds—first, the agency of Restelli; and, next, the propriety of contradicting him.

The Lord-Chancellor added that the passage he had pointed out seemed to him very material.

Mr. Brougham thought that it in fact dispensed with the necessity of further argument on the point.

The Solicitor-General said that he was not aware that Restelli had so sworn; but if the other side could call any body to show that he had offered money to witnesses, they had, of course, a right to do so.

The Lord-Chancellor then adjourned the House.

TENTH DAY.—October 13.

The House met at the usual hour.

The Earl of Lauderdale said that he should require from Lieutenant Hownam the production of his diploma as a member of the Order of St. Caroline, of which he had spoken in his evidence.

After some conversation about opening the windows, counsel were called in, and *Giuseppe Giarolini* was further examined by *Mr. Williams*, through the interpretation of the *Marchese di Spineto*.

You said yesterday you were employed as a builder at the Villa d'Este?—Yes, head master.

Were you paid as you went along, or was there a bill run up?—Before her Royal Highness set out for the long journey, I was paid regularly every week; after her departure, we entered into contract of 75,000 livres; I continued to work under the direction of Ratti, who was the architect, who made me build several other things, more work, this made the sum amount to 145,500 livres.

Did you see Restelli when that sum of money was owing to you?—Yes.

Do you remember any mention being made by Restelli to you of that bill, or payment of it?—He asked me what was my credit against her Royal Highness, and I answered that, deducting that which I had received, it amounted to 455,000 livres.

Was there any thing said about the manner of getting that bill paid?—There was.

State what it was?

The Solicitor-General submitted to their lordships that this conversation between Restelli and the witness could not be evidence.

The Lord-Chancellor thought the witness might be asked whether Restelli made him any offers for coming here; for it appeared from the printed minutes that Restelli had sworn that he had made offers to nobody.

The Solicitor-General observed, that Restelli had not been asked any question with reference to the present witness. He must have been interrogated as to his conversation with the individual witness, to lay a ground for such an examination as that now proposed.

The Lord-Chancellor referred again to the minutes, but said that the Solicitor-General had certainly stated the rule of law.

The Solicitor-General was convinced that their lordships could not fail to perceive the awkward situation in which a witness might be placed if another witness was to be examined respecting a conversation said to have taken place between them, though the first witness had never been asked any question about that particular con-

ersation. If the first witness had been asked any ques-
ion respecting that particular conversation, he might
ave stated circumstances which would have explained
: satisfactorily. The course of examination now pro-
osed was most dangerous, especially in the manner the
resent proceedings were conducted. All the evidence
as printed, and sent over to Italy. Thus persons in that
ountry had the opportunity of looking over the printed
stimony, and then coming here and giving evidence
pon it.

Mr. Williams.—This is a mode of giving evidence to fact. The witness had not been asked respecting a ose conversation, but a fact which it was not likely that estelli could forget. There was nothing awkward in e circumstance except the offer which had been made f money to the witness to induce him to give evidence gainst the Queen.

The Lord-Chancellor said, that instead of calling on the itness to state the whole conversation he had had, he ight be asked whether Restelli gave him money.

Mr. Williams proposed to ask—Did Restelli suggest ny mode by which you were to be paid ?

The Lord-Chancellor said the object of the examina-ion, he apprehended, was to ascertain whether the itness had been offered money, or whether he knows hat Restelli had offered money to any other person o come here. Ask him whether money was offered o him.

Mr. Williams.—Or money's worth.

The Lord-Chancellor.—Yes, that is the same thing.

The Earl of Lauderdale thought the witness ought to e examined to a particular fact, and not generally. The ounsel for the defence inquired generally whether the itness had proposed to any witness that he should go to ilan. The noble and learned lord had said it might be ked if Restelli had "offered any money," or "money's orth," said the learned counsel; but now they not only ent on to inquire if he had offered money or money's orth, but whether he had given any direction to the itness relative to the way in which he should seek pay-ent of his bill.

The Lord-Chancellor suggested that the question might e put in these terms—Do you know whether Restelli ffered you or any person money, or any advantage, for oming here? When that question was answered, it

would be matter of consideration whether further questions relative to the conversation should be asked.

The Earl of Lauderdale agreed in this, but contended that the question which the learned counsel had been about to put, was not in conformity with this decision.

The Lord-Chancellor thought it might be well to ask the witness, in the first instance, whether Restelli had offered any money. This could be followed up by any other question that it might be considered necessary to put, and on the propriety of answering which the House could then decide.

Mr. Williams.—Do you recollect at any time Restelli's offering to you any money or any advantage?

The Lord-Chancellor said, that the question first put should be, whether Restelli offered him any money, leaving for further consideration any other question.

Did Restelli offer you any money?—He told me if my account was not liquidated to send it to him, and he would contrive to see me paid.

What did Restelli say you were to do for that?—He told me to give my account to him, for there were Englishmen at Milan, and he would see me paid.

Did Restelli say to you at that time, what you were to do in order to get that bill paid?—He told me that if I had any thing to say against her Royal Highness (for I had been a long time in her service) to tell it to him, and he would endeavour to make me be paid.

At that same time which is now spoken of, or at any other, had you any further conversation with Restelli, about what Restelli was doing as to witnesses?

The Solicitor-General objected to this question. It could not be made evidence.

Mr. Williams said, that he could show the evidence to be admissible on general grounds; but he would first call their lordships' attention to the facts respecting Restelli. That witness, in his evidence, denied that he was an agent of the Milan commission. He was asked, see page 411 of the minutes, *(Ch. p. 439.)* "Did you not then become one of the most active agents of that commission?" That question was objected to by the Solicitor-General, but it was put and answered thus—"I was not an agent; they have given me orders only as a courier, which is my profession, and as a courier I have travelled." Here, then, is evidence from Restelli himself of his denial of his agency for the Milan commission. Now the evidence he proposed to tender proved that this Restelli, who has himself, as may be seen in the minutes, already acknowledged that he was employed in bringing persons together, or getting evidence for the commission, and

has mentioned the names of individuals he so brought, has also stated to this witness that he has been active in procuring testimony, and giving persons sums of money to come to Milan. Now upon that narrow ground he submitted that the evidence offered ought to be received. In addition, however, to the evidence of Restelli himself, there is, in pages 226, 234, and 235, (*Ch. p.* 286 and 294.) facts stated by others respecting his agency and active interference in procuring and conveying persons to the Milan commission to be examined. The agency of Restelli for the collection of witnesses he must therefore consider proved. He fully admitted that in all cases in the courts below it was necessary, in order to make the acts of an agent evidence, to prove, as a preliminary point, the connexion of such agent with the principal. But in those courts there was always a known party, to whom reference could be made, as a plaintiff, on any question of agency. In the present case, however, the analogy completely failed; for here there was no ostensible plaintiff. Were they, for want of a party on the other side in the character of a plaintiff, to be denied the means of proving acts of agency? It certainly was a very narrow ground of objection, and could not be very satisfactory, that, because there was only one party in this cause, namely, her Majesty, the conduct of agents on the other side could not be given in evidence. The facts which he proposed to prove surely could not be immaterial whenever their lordships came to consider the credibility of the evidence. A mass of evidence had been collected. Was it unimportant to ascertain whether it had been given under the notion that the witnesses would derive benefit from their testimony, or whether it was perfectly disinterested? That would be a fit question for the consideration of a jury, and it surely could not be immaterial when put to their lordships. In consequence of the disadvantage of there being no plaintiff in the case, and there being on the opposite side only a shadow, in the form of the Attorney and Solicitor-General, instead of the substance of an adverse party, they certainly could not proceed in the manner which would be required in the courts below. But would it not be an accumulated aggravation of disadvantages if their lordships were to allow the other side to turn round and say, Because there is no plaintiff you shall not prove agency? The first complaint of the counsel for the Queen was, that there was no plaintiff: were they to add

to that, among other things, the not being allowed to prove the agency of Restelli?—It was material for their lordships to know, if possible, how the mass of evidence before them had been got together, and that could only be done by the course of examination he proposed to pursue.

During Mr. William's speech the *Lord-Chancellor* asked whether the witness (who was still standing at the bar) understood English.

The Solicitor-General said he had asked him that question yesterday, and he answered that he did not.

Mr. Brougham.—The witness does not understand a single word of English.

Mr. Brougham said that very little remained for him to add to the clear and able arguments of his learned friend. The first purpose for which they ought to be allowed to go into this examination was to contradict the testimony of Restelli, for he denied in positive terms that he was invested with any agency, and asserted that his occupation was confined to the office of a courier. This assertion of Restelli's their lordships would find in page 411 of the evidence. (*Ch. p.* 440.) In the first instance, then, they would prove by the evidence which they now offered, that Restelli was in another employment and other capacity than those of courier, and that he carried on a very active agency. This would be proved from his own mouth—that was, from what he had himself said to another. If, then, he denied this, which they would prove, it amounted to a contradiction of his testimony. Undoubtedly this was not the most direct and the ordinary evidence for such a purpose. The persons induced to give evidence by Restelli would have been the proper persons to contradict him, and after he had been asked particularly whether he had offered any inducement to them. This evidence they would have offered, if they had known those persons, if they had had any warning of their existence, and of the intention to call them, and if they had been prepared to cross-examine them as to this point. They would have then given what, *ex concessis*, would have been good rigid evidence of the falsehood of Restelli's testimony; for they could have then asked Restelli, "Did you not tell such and such a person to go to Milan? Were you not employed by such and such persons; and did you not use such and such inducements to such and

uch persons to give evidence?" They could then get he contradiction from the very persons who should ave been by name mentioned to Restelli. This would ave been the more regular way; but, unprepared as hey had been, ignorant as they had then been of the ames of witnesses, as of the witness, they were entitled ow to obtain the contradiction in the mode proposed. n the courts below it would be allowed in such circumtances, although he confessed, and his learned friend ad done, that it was not the most ordinary way. The ther ground on which they were entitled to go into his evidence was, that not only that a contradiction night be proved, but because they had a right to give vidence of all the dealings and sayings of Restelli in he character of agent. They contended that they had et out enough in cross-examination to prove that Restelli was intrusted with so much agency and employment—by whom? By the Milan commission. Their lordships would find this proved in the cross-examination of Raggazoni and Mejani, pages 226 and 234. (*Ch. p.* 286 and 294.) Restelli was himself asked, in cross-examination, "Did you take a letter to Credè?—I went with a letter to a man of the name of Credè. Did not you yourself persuade Credè to go to Milan?" Here Restelli told the means of persuasion which he had used. "I told him that the advocate and the commission at Milan required him, and that both his expenses in the journeys in going and coming would be paid." And again he said that he had taken four or five different journeys; he said indeed as courier, but when he did that which was not within the province of a courier—when he promised money in the name of the advocate and commission at Milan—it was quite clear that he had been, in fact, an agent. His learned friend, Mr. Williams, had said that there were no parties in this case, as in all other cases; there were not, and that occasioned infinite difficulties to them in the defence. But he did not agree altogether with his learned friend that they could find nothing but shadows for the prosecution. The Milan commission was no shadow, but a most substantial antagonist. They had not found the Attorney or Solicitor-General, he could tell their lordships, to be shades. The parties were the Milan commission, as much as A and B on the record were parties. The fact, then, that Restelli had acted as agent to the Milan commission, let in his doings

and sayings as most material evidence. For this reason then, as well as for the purpose of contradiction, they were entitled to proceed with the examination, as proposed by his learned friend.

The Solicitor-General replied, that, as to the first ground, Restelli said he had not acted as an agent generally, but as a courier, and that as a courier he had directed Maurice Credè and another individual to go to Milan. It was perfectly clear, then, that his learned friends were not at all entitled to go into the proposed evidence on the ground of contradiction; for Restelli himself had said that he was an agent in a certain qualified way, namely, as a courier; and because, for the purpose of contradiction, they ought to have asked particular questions as to particular individuals. Upon the first point there was no ground then; upon the second there was still less ground. It was not enough that Restelli acted as agent, unless he acted as agent by the authority of the Milan commission. Even if it were agreed that the acts of the Milan commission were evidence in this case, was it to be contended, if they had employed Restelli as courier, that every thing he had said could be admitted as evidence? But he would go still further: even if he had acted by the authority of those at Milan, and called Milan commissioners, his sayings could not be evidence. The bare statement of this was sufficient. Undoubtedly it had been competent to his learned friends to have asked any questions of Restelli respecting his sayings or promises to particular individuals, and to contradict his answers if they were not true. But as they had not pursued that course, and had neither to Restelli himself, nor to the witnesses supposed to have been induced by him, put any questions, it was most extraordinary now to inquire into whatever Restelli had done or said through Italy. His learned friend had complained that they had not had time to be prepared. As to time, their lordships would recollect that his learned friend had fixed his own time. Their lordships had granted every indulgence, if he might use the word, in respect to time. It was, therefore, too much now to say that they were entitled to go out of the way for want of time. There was a difference, it appeared, in the opinions of his learned friends; Mr. Brougham considering the Milan commission a substantial party, and Mr. Williams saying there were no parties. It was not for him to reconcile these

differences; but when they differed on substantial points, they ought not to come forward to ask their lordships to let them give evidence depending on those points.

Mr. Brougham explained, that he had not complained that he had not had time to prepare the defence, but that when Restelli had been called he had not had time to learn what he had done as agent, and to whom he had applied for evidence against her Majesty.

The Solicitor-General asked why he had not then availed himself of the protracted cross-examinations which had been allowed.

Mr. Gurney was directed to read the question.

At that same time which is now spoken of, or at any other, had you any further conversation with Restelli, about what Restelli was doing as to witness?

Lord Erskine asked the preceding question to be read. (This being done, his lordship proceeded.) Their lordships had evidence before them that Restelli had denied on oath what was proved to have been done by him. If, then, he had intermeddled—he would not use a stronger word at present—but if he had intermeddled in getting evidence against her Royal Highness, the counsel had a right to inquire into that fact, and it was most important for their lordships. He attended there, from day to day, to do all in his power that the strict rules of law might be attended to as far as, in the situation in which they were placed, their proceedings could be assimilated to ordinary proceedings: but it was essentially necessary that all the light should be let in upon this dark transaction which they could let in: he lamented exceedingly that in this transaction they were at the present moment so much in the dark as to the Milan commission. He meant not to impute unfair means of procuring evidence to the noble lord at the head of his Majesty's government; he disdained the idea of any thing of the kind. But when they knew that a commission had been appointed, that examinations had undoubtedly taken place, and that evidence so given originally was afterwards brought before their lordships, they ought to be informed of the origin and character of all this previous proceeding. What light had they upon the manner in which the witnesses became first known, and how they were brought to Milan, and examined *upon this subject.* What light had they upon any *step in the proceeding* before the case came to their

lordships' bar? He, for one, had no light at all upon those subjects; and he ought to know, from examinations, cross-examinations, and every way in which light could be obtained. As to Restelli, now was the opportunity of cross-examining him on points which had not been known before. The question now, therefore, was, how the contradictions to Restelli, or the acts which he had done, could be brought before them. Either their lordships must assent to the request of the learned gentlemen at the bar, or Restelli must be called back, as Majochi had been. His opinion was, that it would be the better course to call back Restelli: but was there not agency already admitted? Could any thing be clearer proof of agency—and, he would add, of corrupt and profligate agency—than the attempt to get a witness against her Royal Highness by saying that there were Englishmen at Milan who would see money paid to the witness in return? Was there a noble lord in that House who did not believe that the agency extended farther than they had traced by any inquiries or statements? If not, who could say that it was not necessary to have the whole of this profligate proceeding discovered, discussed, and well considered, before they formed any judgment upon the evidence in general? Before that was done, they could have no means of ascertaining the truth. When their lordships deliberated upon the general question now at issue, there must be nothing left dark, nothing must remain behind. He perfectly agreed that their situation was very different from that of ordinary trials. That was the great evil of the present proceeding, that it left the ordinary course of justice, and intrenched on the ancient constitution of the land. Care ought to be therefore taken by their lordships that this evil should not be magnified. Could he have any faith in the case as it stood at present before their lordships? Restelli himself had admitted a corrupt agency—he said distinctly a corrupt agency, from the facts which were already in evidence. He said, therefore, that their lordships must in some way or other know further respecting the acts of Restelli; they must know further, or they could not know the truth, or judge with safety in this case.

The Earl of Liverpool rose, not to give any opinion upon the question immediately before the House, but to say that the Milan commission—that was, the gentlemen at the head of it, or rather the gentleman at the head,

might be called and examined at their lordships' bar present, or in any part of the proceeding that might thought most convenient. This was all he had to observe upon this subject. No objection whatever would be made to giving to their lordships the whole history of the Milan commission.

The Lord-Chancellor said, that it was impossible for any man who felt as all their lordships ought to feel, to doubt that, after what had passed, the gentlemen of the Milan commission ought to have an opportunity of explaining their conduct. It was not consistent for him to make any observation on the evidence before them, as establishing or contradicting any former evidence; for all the evidence would come to be considered hereafter: but it was not consistent with his duty to give any character, good or bad, to any witness. As to the present difficulty, he would say that it did not at all follow, that, because the answer might prove nothing, therefore the question ought not to be put. To be sure, the legal weight depended on the answer, and so it would be here. If the agent had done what was not within his power, that would not be the act of his principal; but it might be proper to inquire into it, for other purposes. If the allegation were, that he had offered money, and ten persons should say that he had done so, the mere fact of having offered money would not become the act of his principals. But if they should say that he had offered no money, and it should be proved that he had acted as an agent, the principals were not thereby proved to be implicated. Still the question was to be put, and they must take the answer; and for this reason:—if he had said that he had not acted as agent, and it could be proved by the answer that he had acted as agent, although that would not exclude the whole of his evidence, yet it would be a ground for the judge examining most jealously and anxiously his evidence in other matters. Having said so much, he must now advert to a great deal of the evidence on this point, because they were not now in the situation in which they would have been if no previous examinations had taken place on the subject. The evidence to which he wished to call the attention of their lordships is in pages 410, 411 and 412. *(Ch. p.* 439 and 440.) At the beginning of page 410 were these questions and answers:—

"Did you offer yourself as a witness to the Milan commission, or did those who pay you your pension induce you to go before them? or how?—I have not been to Milan for this purpose: but I am settled at Milan.

"The question was not, whether you went to Milan, but were you induced to go to the Milan commission, or did you go voluntarily? —I have been sought after."

Why, this man had no doubt as to what was meant by Milan commission, as appeared by his answers. He was asked again,

"How soon after Reganti spoke to you did you go before the commission?—The day after."

Here was an evident admission of his knowledge of a commission. At the beginning of page 411 he was asked,

"Did you not become a very active agent of the commission?—I was not an agent; they have given me orders only as a courier."

He would stop here to point out a distinction which might not appear important to those of their lordships who were not accustomed to consider how important distinctions sometimes were. It was very important. A person might be very active in procuring witnesses, and yet be very different from an agent; and an agent on the other hand may, in a great many senses, have a quite different name, but in substance act as an agent. Then nothing could be inferred against the principal, unless the agent had his authority for the particular act. His lordship read further through this part of the evidence, to show that there was proof of Restelli having been employed by the commission at Milan. Upon reading the name of Mr. Cooke, his lordship said, that when that name fell first from his lips, in course of this proceeding, he must state that he had known him for nearly half a century as one of the most honourable of gentlemen. A higher character for integrity and honour, he declared upon his honour and veracity, he had not known. There was then evidence that Restelli had been employed by the Milan commission; and the question thence arose whether what he had said and done in that employment was evidence? He submitted to their lordships whether, after so much evidence of his sayings and doings had been given, they would not now hear evidence which they might not hear if the preceding evidence had not been given?

Lord Erskine said, that, let the commissioners be *righteous* as the righteous could be, the witnesses might

have been corrupted, and that was equally fatal to the inquiry in this case.

The Earl of Carnarvon said, their lordships were placed in such a situation, that every step they advanced they found themselves involved in greater difficulty and increased danger. They ought not to proceed one step further in this odious, detested, and infamous proceeding, without inquiring whether the agency which procured evidence was or was not an active subornation of perjury. Whatever office or authority Restelli might have been intrusted with by the commission, if he assumed an agency to suborn false evidence, that was sufficient to throw practical discredit on all the witnesses. Till this subject could be traced to the fullest extent, they could proceed no further; and if it were not traced, this ought to be the conclusion of the present inquiry. If there existed now any difference of opinion upon this subject between any two lords in that House—if, after tracing this inquiry into the agency to the conclusion that there had been subornation of perjury, could there exist in any mind well constituted a doubt that their lordships should proceed no farther with this bill? If this were proved, he could not believe that there was one noble lord in the House who would not say that not a moment ought to be lost in rescuing this country from the greatest curse which either the folly or the wickedness of men had ever inflicted on a nation. If the subornation of perjury were proved, and their lordships should proceed to legislate upon palpable lies and purchased fabrications, the result would be to bring into contempt and disgrace every institution that was ancient and honourable in the land—every thing that was valuable to themselves—and every thing on which the future prosperity of the country stood. He could not consider this as a dry question of technical law. They had resorted to a mode of trial unknown in latter and better times; and a mode which, if warranted by the most pressing necessity, would prove most calamitous in its consequences. But it appeared from the evidence, which was concluded on one side, that from the lapse of three years, if the legal construction of treason had applied to this case, it could not be tried in any tribunal in this country. As a subject of policy, this proceeding could not even be favourable to the private interests of the individuals *who instituted* it, and who were entangled

in its progress in every evil and danger. The further they proceeded the more they would be entangled, and the more fully would they bring into disgrace every institution which they ought to hold up to respect and confidence. He was sure it had excited feelings in this country, which, not only could never be excited in England, but in any country, without the utmost danger, but which, in England, where public feeling was so general and so powerful, and where the true character of institutions formed their only security, could not be excited without sapping the foundations of all our institutions, the venerable bulwarks of order, justice, and religion. He felt, therefore, bound to call on their lordships to stop this proceeding. If this fact were substantiated, their lordships must agree with him in thinking that they could not render a greater service to the parties interested in this bill—if any such parties existed, and he believed there must be some who were interested in its success—than by ridding them of such a measure; a measure which, if persisted in, would, like a mill-stone, drag them down to destruction, and with them every sacred and valuable institution in the country. Their lordships had now got so much evidence of subornation, that, in his opinion, they could not drop the farther inquiry into that subject.

The Earl of Donoughmore (counsel having been ordered to withdraw) complained that, after what the learned lord on the woolsack had said on the law of the point in question, his noble friend (the Earl of Carnarvon) had interposed with such a speech as he had never before heard on such an occasion. The question being whether their lordships should receive a certain point in evidence, his noble friend had interposed and had broken out into invective against the general principle of the bill, which had been examined and discussed before the proceeding was entered upon. Was ever such an opportunity taken of expressing an opinion pending the hearing of evidence on a trial? Every inflammatory topic that had been urged, either in that House or out of doors, had been introduced by his noble friend, and the attention of their lordships had thus been called away from the great and important consideration immediately before them. When the greatest part, he trusted, of the evidence was over, instead of allowing their lordships to come to a grave and solid conclusion on the *subject,* his noble friend started up, and, after a grave

argument from the table, came with a short motion or question to put an end to the bill at once. He would not trouble the House with any argument in reply to his noble friend, because it was not necessary. He had stated the idea he entertained of what his noble friend had thrown out; and, having done that, he would leave it to their lordships' consideration.

The Earl of Carnarvon said, he had been accused of interrupting this proceeding in a strange way, to put an end to the bill. Now, what he had risen to call on their lordships to do was this: upon a case being established by evidence, that an agent connected somehow or other with the Milan commission had acknowledged himself guilty of bribery—on that being established, he had called on their lordships to put an end to the proceeding. He could, with confidence, appeal to their lordships whether this had not been the object of his remarks. His noble friend had asked, if ever such a speech had been heard on such an occasion? In reply to which he would call on his noble friend to show him any proceeding such as the present.

Counsel having been called in, the examination of the witness was resumed by *Mr. Williams.*

At that same time which is now spoken of, or at any other, had you any further conversation with Restelli, about what Restelli was doing as to witnesses?—The first time I had conversed with him, I was coming from the States of the Pope, and I had a conversation with him in an inn, and afterwards I had conversation with him in other places; but we talked a little upon this subject, and then we talked upon other discourses; and another day we were coming out from the Custom House of Porta Tosa, and I was going out of the ramparts in the street of Circolazione of Milan, and we were then talking about witnesses; he told me that he had gone into my country about witnesses, and then, when he was in my country, he went to ask for one witness and that witness went to ask another, that other went to ask another, then they had drank together; and he has asked them whether they were willing to depose against her Royal Highness, and then he asked them, will you come to Milan with me; then they breakfasted at the Tredate coming from Cazzone, from Tredate he went to Musoc, there they dined; when they arrived at Milan they went altogether to the inn of St. Clement; when they were at the inn of St. Clement, Restelli told the innkeeper to give them every thing they wanted for their victuals; then afterwards, one after another, he took them before Vimercati, and the other English that were there.

On any of those occasions did Restelli say that he had paid money to any of those witnesses?

The Solicitor-General objected to the form of the question.

The Lord-Chancellor said they might ask whether Restelli said any thing about paying money.

Did Restelli say any thing about his having paid money?—He told me had kept them seven days at the inn, and paid forty francs; that he had paid them forty francs each.

Was any thing said about their expenses besides?—He told me that he had given to all those people that he had brought from my country forty francs, but that to Raggazoni he gave fifty francs, and that he gave fifty francs to Brusa.

Name any more if you can?—He gave forty francs to Paolo Raggazoni, forty francs to Bai Rossi.

Any body else?—I think Franco Bai, but I am not sure, because he mentioned them altogether; but he mentioned them with his own mouth; Ambrogio Bianchini, of Leghorn, has also had money.

Mention whether, at the time when money was mentioned, any thing was said of their expenses, as contradistinguished from money given to them?—Not for the expenses, but he told me that when he went to my country he employed a chaise, and paid for the posting.

Did he say who paid the expenses of these people at the inn?—There were many, all coming from my country, and they were all of them at the inn where they were.

Did Restelli say who paid the expenses at the inn?—He said that he paid them in the day the forty francs, and that Restelli paid the innkeeper, because the witness got the forty francs clear.

Cross-examined by the *Solicitor-General*.—Where did those persons come from to Milan?—They came from Cazzone, my country, and he took them to Milan.

How many miles, altogether, did they travel?—Some twenty-eight miles, some thirty miles.

Do you mean that it was twenty-eight or thirty miles to go to Milan?—I do.

You have said something about Raggazoni, where did Raggazoni go from?—Restelli came from my country, and went to an inn, and then he sent Brusa to fetch Raggazoni from Binago, which is four miles from Cazzone.

When you say it is four miles from Cazzone, do you mean that it is four miles further from Milan than Cazzone?—Nearer.

Did he go to Cazzone, in order that they might all go together from Cazzone to Milan?—He came with Brusa to Cazzone; they went to an inn, drank together, and next morning they set out all together.

Did Brusa live at Cazzone, or did he live further?—At Cazzone.

The witness answered the last question while it was being interpreted.

Have you learned English since yesterday?—No; but he spoke very clear; he spoke very clear, he said Brusaera Cazzone.

Do you understand a little English?—Nothing; but it was clear he said where was Brusa, Cazzone, Brusa was at Cazzone.

Brusa, in point of fact, was sent to bring Raggazoni there?—He was; Restelli sent him to fetch him.

Do you know how long they were going from Cazzone to Milan?—A day.

And of course also a day to return?—As to returning, they went as they liked, for they had drink, and it was during the winter, and they *might* have been a day, or a day and a half.

With respect to the grotto, of which you made mention yesterday, *how far* is it from one extremity to the other; is it more than forty or

fifty feet?—I do not remember that; I have been in it every day, but I have not paid attention to the number of feet.

Do you believe that it was about forty or fifty feet, according to the best of your recollection?—More than fifty; but I can give the measure in bracchi.

The interpreter stated that the witness did not understand distinctly the word used for feet.

Will you swear that it was more than twelve or fifteen bracchi?—I will not swear, because I have not measured it; I must swear what I have measured.

Will you swear that, according to the best of your recollection, it was not more than twelve or fifteen bracchi?—It is longer in the straight line than from the folding door to the throne.

What have you been paid for coming here?—Why, I have not received, but I have made my calculations about my business and about the time I have lost with the Engineer Ratti and another gentleman, a doctor or advocate, whom General Pino had sent to make this writing, because my family and my children would not let me go. At Michaelmas time, at Milan, people change their houses, and there is much to do for people of my business, and in going away I was obliged to put another man to go on with my business; another man I have sent into the country to attend to my workmen, because my son I could not send because he attends the business at home and pays the men; and at last I cannot undertake any business because I do not know the time, though they have told me that it will be for about two months; and whenever I cannot take work at this time, I must go without work the whole of the year; this they have calculated, and agreed to give me 2,100 francs.

Besides that, are your expenses paid?—They are.

What is the name of the advocate with whom you made this agreement?—He had been dictating it, together with Ratti.

What is the name of the advocate?—I have told you I have not asked his name.

Does he live at Milan?—He lives at Milan.

Is his name Codazzi?—No, the writing has been looked over by this English gentleman, and it was on the following day he asked me whether the writing had been made, and I told him yes.

Was Vassali present at the time?—He was not.

Have you met Vassali upon this business?—At Milan, yes, after the writing had been made.

Did you never see him before this writing was made, upon the subject of this business?—He never meddled himself in this affair.

Where was it you met General Pino?—General Pino was at his house, for I worked for him, as the head mason.

Did you see General Pino upon the subject of this business, before you signed that agreement?—I have not seen General Pino, either before or after; Ratti was coming down the stairs from General Pino, for he had been with him above; and Ratti told me that he had said to the general, that if I was willing to go, he would take care to make me indemnification for my loss.

Was this agreement, of which you have spoken, made with General Pino, did General Pino undertake to pay?—I had not even seen General Pino, he (Ratti) was coming down from the stairs of General Pino.

Who is it that is to pay you this money you have stipulated?—Vassali.

At the time you made this agreement, and when you met Vassali, were there other witnesses there, making agreements?—No, Vassali was even not present when I was making the writing; he had not the slightest concern in it, except to see that I shall be paid.

You were just asked, who was it that was to pay you? you said Vassali; is that so?—Vassali is to pay me.

You have spoken of a sum of money that was due to you from her Royal Highness the Princess of Wales; has that money been paid?—She has paid me entirely.

When was that paid?—I had been partly paid at the end of January, part in March or April, of the year 1819.

You have spoken of some conversation you had with Restelli, and some meetings with witnesses; was that money paid to you by her Royal Highness after those meetings?—When I spoke to Restelli about this business, I had not been paid by her Royal Highness.

How long was it after that that you were paid?—When Restelli began to talk to me about this business, I told him I had already received part of the money; I had received the money which was paid in January, and then I answered Restelli, that in a short time I hoped to be paid entirely.

How soon after that was it that the money was paid to you by her Royal Highness?—This is a little confusion; I have talked of the month of March, when a part of my account was still due.

How long is it since the last payment was made by her Royal Highness to you?—The end of April, or the beginning of May.

In this present year?—In the year 1819.

Will you swear, that besides that agreement to which you have spoken, by which you are to receive 2,100 francs, you have not entered into an engagement with any other person or persons to receive any other sum of money?—Another sum to receive five or six francs per day for the family which is at home, but I have made no writing, this agreement has been made by my son; but there is no writing.

The interpreter (Spineti) here addressed their lordships, and was proceeding to say that he was empowered by counsel to say in his justification a few words, when he was interrupted by

Mr. Brougham.—Come, Mr. Marchese, continue your translation, if you please. My lords, we have not authorized him to say any such thing; the fact is, that the Marchese Spineti was speaking to our own interpreter, and was entering into a conference with him, in order to induce him to become counsel against myself. I submit, my lords, that no justification is at all necessary; there can be no necessity for the interpreter to argue against counsel, and it was his duty only to translate.

The Lord-Chancellor.—You will allow me, Mr. Interpreter, to be counsel for you; and to tell you that you have only to translate.

The interpreter bowed, and the examination proceeded.

With whom was this agreement made, between your son and whom? —With the same architect, Ratti.

Is Vassali also to pay that?—I do not know whether he has received them: he is to receive them from Ratti; but I do not know whether he has received them.

Besides the agreement, by which you are to have your expenses paid, and the 2,100 francs, and this payment to your son, will you swear there has no promise of any other payment been made, either to yourself or any member of your family, or any expectation held out? —I hope that my time may be considered during the time I am here.

Are you understood rightly, that your son is to be paid five or six francs a day, that you are to receive 2,100 francs, and that your time is also to be paid during your absence?—For the loss of my time; for the 2,100 francs are for the loss I may sustain for the time to come.

Are you to be paid daily for the loss of your time?—As they have told me, that in a month and a half I may return to my country, I have asked a golden Napoleon a day.

(Mr. Cohen, whilst the answer was being interpreted.) —He has added, "They did not offer it to me."

Though you have not been promised this Napoleon a day, do you not expect to receive it?—If they give it to me, I do not refuse it; if they do not give it to me, I do not claim it; but if it is a long time, they cannot refuse it.

Have they not behaved in such a way towards you that you feel confident you shall receive it?

Mr. Williams objected to the question, and it was withdrawn.

Besides these various promises and expectations you have spoken to, has there been any other promise made either to yourself or to any other member of your family, of any reward or payment during your absence?—Nothing.

You have spoken of a person of the name of Ratti, is he not by profession an architect?—Yes, but he is acquainted with my family, and with my business; nay, this architect is obliged, out of the sum that they have fixed for the loss I may sustain, to teach his profession to my son; observe, that in regard of this golden Napoleon, I have been obliged to put another person at Milan, and another into the country, for my son cannot attend them, as I have said before.

Besides the sum you are to receive, has Ratti undertaken to instruct your son?—No, he does it as a kindness to my family, because my son is a young man, and he teaches him his business.

Is Ratti to be paid any thing for this?—I must recompense him some way or other, for the time he loses; for whenever a person loses his time, in some way or other he must be indemnified.

Have you made any promise to do it?—But according to the visits he will pay to the buildings, he will be paid.

Have you made any promise to pay Ratti?—I have made no promise, he is not a common man that requires a promise to be made.

Is he not architect to General Pino, and was he not architect also to her Royal Highness?—He was the architect of her Royal Highness, and is the architect of General Pino.

Are you to receive any other benefit or advantage by coming here? —The advantage to send me to my country, that is all.

Do you *not know that* Ratti has been employed to take plans of the

Villa d'Este, for the purpose of this proceeding?—One day we went together, to take the plan of the house; there was the old house, and the new house.

Was not a plan also taken of the Villa Villani?—I know not.

Do you know of any other plan being taken by Ratti, for the purpose of this business, except the plan of the Villa d'Este?—Only a part of the Villa d'Este, not the whole.

Do you know of a plan of any other building being taken by Ratti, for the purpose of this business, except that plan of a part of the Villa d'Este, of which you have made mention?—I know nothing, I have seen nothing.

In that room where the two figures of Adam and Eve were placed, were there not two doors?—To come in and to go out.

What was the size of that room across, as nearly as you can recollect; how many braccbi the diameter?—The diameter would be from the outside of the bar before me to the third bench, more or less; I do not know exactly; for I never measured it.

Re-examined by *Mr. Williams*.—How many men had you in your employment when you agreed to come to this country?—Thirty bricklayers, and thirty-four or thirty-five helpers; now, perhaps, I may have more.

What was the name of the English gentleman you alluded to, when you were talking about coming over as a witness?—I do not know the name; I do not recollect the name; a tall man, red, but I do not know his name.

Was it Mr. Henry?—Yes.

When you were talking about coming over here, was any mention made of your expenses—what you were to be allowed?—No, nothing; I have been speaking with the architect on this affair, but not with him.

Is the sum you have mentioned, or rather are the sums you have mentioned, what Ratti fixed when you spoke with him (Ratti)?—Yes, because I asked his opinion, and I told him all my difficulties; because the Englishman wanted to know exactly, being a man of conscience, and desired I would make an estimate, and I told him so.

Did you tell the English gentleman of conscience the sum Ratti had fixed?—Yes, he asked me; he made a writing, and I told him so.

Who told you that Vassali was to pay you?—The Architect Ratti.

You have been asked about there being two doors to that room in which the statues were; was there any cornice to that room to which any work was done at any time?—During the time I was in the service of her Royal Highness I never sent any body to work in that place.

The Solicitor-General requested to ask a question of the interpreter, whether pilaster meant a flat column with a capital and a base?

The Interpreter.—Pilaster in Italian signifies any building, any support, which is not a column: so, if I place in the middle of this House a pile of bricks and mortar to support the ceiling, I call that a pilaster in Italian, of any shape and dimensions, provided it be not a column.

Examined by the Lords.

Lord Ellenborough.—Do you recollect any pilaster near any door in the room in which the statues of Adam and Eve were?—Yes, there

are some steps; there is a column; there is a pilaster, one after the other.

Near which of the two doors of the room was that pilaster?—At the door of entrance.

Which entrance?—The entrance when you go up you find the room with the pilaster.

Then it was not by the entrance from the garden, but by the entrance from the rest of the grotto?—(The witness pointed it out with his finger.)

The Interpreter.—He seems to point out with his finger the room, and then the pilaster and the column, and so you may go into the grotto.

The witness made a drawing, which was delivered in.

Lord Ellenborough.—Is this entrance marked 1, the entrance from the garden, or from the grotto?—There is no garden, No. 1. is the entrance to the grotto.

From whence?—From the hill from the outside, from the road.

When did you hold the conversation, of which you have spoken, with Restelli, respecting the sum due to you from the Princess?—In the month of June or July or August, in my house, for he was always coming, and we went out together.

In what year?—Last year, 1819.

Did not you, in a former answer, say that the last payment of the sum due to you from the Princess was made in March 1819?—Yes; for when that conversation took place there was still some due to me, and then afterwards came the conversation about the men.

Then the last payment was not made in April or May 1819?—Yes.

Was it, or was it not?—It was.

Then when you had this conversation with Restelli in the month of June 1819, of what sum due to you from the Princess did you speak?—Then I advanced a little; but we were discoursing of something else then; we were talking about men, not about that business.

Do you mean to say, that between the month of April or May 1819 and the month of June, another debt was incurred by the Princess of Wales to you?—No.

At the time of this conversation with Restelli, did the Princess of Wales owe you any thing?—Before, as I have said in the month of April and May, she was in my debt, but then when I had with him the conversation about men, and what you do, and what you do not, then nothing was due to me.

When did you hold that conversation with Restelli respecting the 45,500 francs due to you?—I have spoken when I came to Milan in March, or the end of February.

In what year?—Last year, 1819.

Are you to be understood that the last payment of the debt of 45,500 francs to you due from the Princess, was made very soon after this conversation with Restelli; in the same month?—Before, for a conversation with Restelli I always have had; but the conversation which I had was before the payment.

How long before?—When they had paid me, and I had a conversation with him, then I told him I had been paid in March.

How long before the last payment of that sum was the conversation with Restelli?—I have told, and I repeat it again, in March.

Are you to be understood, that the conversation with Restelli, and the *last payment of* that sum, took place in the month of March?—

The payment was made in May; but my conversation took place in March.

At what period in the month of March?—I do not know, it was on the day that I came to Milan, when on account of the requisition, I went there to free my son from it.

Was it about the beginning, the middle, or the latter end of March?—In the month of March, I do not remember the day.

At what period of the month of May was the last payment?—About the beginning I think.

Did you, after the conversation you held with Restelli, make any immediate application for payment?—Not from her, but I came back, I went to Pesaro besides.

How soon after the conversation with Restelli, did you make any application?—I have said that I saw him at Milan, where I was four days; then when I returned home, I went to her Royal Highness at Pesaro, and asked for the money, and she paid me; and then I returned to Milan.

Did you ever mention to any one the conversation you had with Restelli?—No, because I went away.

When did you first mention it to any one?—When I have been asked, I mentioned it.

Did you ever mention that conversation to her Royal Highness, or any person in her Royal Highness's suite?—After I got my money, I could never speak with any body of her Royal Highness's court.

Did you ever mention that conversation to her Royal Highness, or any person in her Royal Highness's suite?—No, because I have told you I went to get my money, and she was at Pesaro; and when I had my money, I returned to Milan.

Did you, before you got your money, mention that conversation to any one at Pesaro?—It was not business to be told to any body, I have told nothing to any body.

Earl Delawarr.—Could a person standing near or behind the pilaster in the grotto, see the statues of Adam and Eve?—It appears to me impossible, but I have made not the observation, but as the room is round, and the statues are by the side, I should think that a person behind the pilaster cannot see them.

Earl Grosvenor.—Have you, since you have been in this country, seen any plan of the grotto?—I have it in my own mind, because even before I went to the Princess I always went to the grotto.

Was the passage that you speak of, leading to the grotto, a winding passage or a straight passage?—If a person goes straight forward, he goes straight forward and breaks his neck.

Was that passage winding or straight?—It is not winding, the walls are undulating, but the passage is straight.

Lord de Dunstanville.—You have said that Rsetelli told you certain witnesses were paid some forty and some fifty francs a piece, and that they continued at Milan for seven days, were those sums paid for the whole time they were at Milan, or was it a daily payment?—Once only.

The Earl of Lauderdale.—What was the amount of the last payment you received from her Royal Highness the Princess of Wales?—The half, with the interest, which she paid me.

The half of what?—The half of 45,500 francs, with the interest besides.

When had you received the other half?—The first half was received *in my name* by Mr. Lodi in the latter end of January, or the beginning of February, because I was out.

What was the largest sum that the Princess of Wales ever owed you?—The last because it carried the interest.

What was the largest sum that the Princess of Wales ever owed you?—The sum was 45,500 francs, but when they paid me with the interest it came to 49,000.

Have you not stated, that the Princess once owed you 145,500?—From my account, which had been inspected by the architects Pestagalli and Ratti, I was then creditor 145,000 francs, but the 100,000 francs I had received.

When you had received that 100,000 francs, was there any objection made to the charge, and assigned as a reason for keeping back the 45,000?—I was in the habit of receiving money every month; every month, every six weeks; and I went to Marrietti, and Marrietti gave me money; I have received it so many times.

The Earl of Lauderdale requested the following extract from the former evidence of the witness to be read to him:—

"The first time that I had conversation with him, I was coming from the states of the Pope, and I had a conversation with him in an inn; and afterwards I had conversation with him in other places; but we talked a little upon this subject, and then we turned upon other discourses; and another day we were coming out from the Custom House of Porta Tosa, and I was going out of the ramparts in the street of Circolazione of Milan, and we were then talking about witnesses; he told me that he had gone into my country about witnesses, and then, when he was in my country, he went to ask for one witness, and that witness went to ask another, and that other went to ask another; then they had drank together; and he has asked them, whether they were willing to depose against her Royal Highness; and then he asked them, will you come to Milan with me?"

Did Restelli tell you, that having got one witness, he Restelll went to get another, or that that witness went to get another?—Restelli said to the innkeeper to send for such a man and the innkeeper, sent for such a man; after this man came, who was Brusa, Restelli told Brusa, "Go and fetch such a man, and such a man, and such a man."

Have you often been at the Villa d'Este?—Before, I was always at the Villa d'Este, because I was in the house of General Pino, who was the master of the Villa d'Este; after her Royal Highness acquired the Villa d'Este, I went there, and remained in the house.

Do you remember any of the paintings on the ceilings in the rooms of the Villa d'Este?—Her Royal Highness had made some ceilings be made; she ordered one to be painted; others had been painted,

Can you state what that painting was?—The ceiling was made of small pannels, and in the middle there were some flowers, some medallions, some one thing, some another.

Was there no figure painted on that ceiling?—Simply this size (about four inches), because the ceiling was small, made in Chiarooscuro.

Do you recollect the bath-room at the Villa d'Este?

Mr. Brougham begged leave to submit that this question went to open a new case, and not that opened by the *Attorney-General*. He begged to be understood as

not objecting to such a course, but merely reminding their lordships, that if they entered into it, and that anything were said which he might have occasion to answer, he should perhaps have to claim a delay of five or six weeks to bring over witnesses to meet this new case. After answering the case already brought forward, he must really ask for delay if another public prosecutor was to start up with a new case.

The Earl of Lauderdale contended that it was competent for any peer to call any witness during any part of the prosecution, and ask him any question he pleased respecting the conduct of her Majesty, and any or every part of that conduct.

The Lord-Chancellor said, he thought it quite clear that the limits put upon the forms of examination to be observed by counsel did not in any degree restrict the right of any peer to put such questions to any witness as he thought fit, at any period of this inquiry.

The Earl of Lauderdale said, that it was competent for any peer to do that, without being called a public prosecutor.

The Earl of Darnley remarked, that he was interrupted yesterday, and by the very noble earl who spoke last, in a material part of a course of examination, which he thought, if he had pursued it further, would operate rather favourable for the interest of one of the parties in this case—the accused. He had yielded yesterday to that interruption, and refrained from pressing his questions to the witness. Their lordships, on this occasion, should recollect that they had taken upon themselves the anomalous functions of judges, jurors, and legislators. He had always understood it to be the duty of a judge or a juror to lean to the side of mercy, and in favour of the accused. Keeping in mind this understanding, he could not refrain from taking this opportunity of remarking, that, notwithstanding what had been said by some of their lordships of dignity and decency, of which he had heard so much, there were some to be found who appeared—instead of being impartial judges, and disposed to lean to the side of mercy—to have feelings of an opposite character. (The noble earl was here interrupted by loud cries of Order.)

Lord de Dunstanville condemned the introduction of irrelevant remarks, calculated to lead to altercation.

The Earl of Darnley resumed, and said that he did not

mean to accuse any particular noble lord of partiality; but most certainly, generally speaking, he was sorry to find a disposition now and then manifested, which did not in his judgment appear calculated to sustain their lordships' dignity and impartiality. For his own part, he was determined to discharge his duty fairly and impartially, with a proper disposition to lean to the side of mercy, the propriety of which he hoped others would feel as strongly as he did in the discharge of his duty, though he was astonished to find some of them did not.

Lord Redesdale complained that the concluding assertion of the noble earl was as strong as that with which he had set out. Now he hoped that he should be found to act as impartially in the discharge of his duty as the noble earl. He was very sorry that any thing could have occurred at any period of the investigation to induce the noble earl to make the remark which he had made; but he must say, that it applied, if at all, as well to the opposite side of the House as to his side; indeed, more so.

Lord Holland was as anxious as any body to see their lordships abstain from altercation. He begged that the learned lord would not take their defence under his charge; for if his mode of defending the House against the charge of partiality was by imputing to his oponents unfair, unjust, and illiberal proceedings, it was the most unfortunate defence against partiality that he had ever listened to. It was wrong, he well knew, to impute improper motives to any noble lord; but he hoped that they would not feel hurt at an observation which he was going to make—namely, that both parties were as partial as they possibly could be. Nobody could possibly doubt that any noble lord possessed the right of calling up any witness who could either directly or indirectly give testimony respecting the bill. Neither could any body doubt that to such a witness any question could be put by them, even though in its nature it were not strictly legal. But his noble friend (Lord Lauderdale) had been the first to take objections against evidence which was not so, and the thanks of the House were due to him for so doing. And therefore any party, or any of their lordships, had a right to object to the putting of questions leading to a new inquiry. In point of candour and substantial justice, which was their proper guide on this occasion, if any of their *lordships* thought that he could bring for-

ward evidence calculated to elucidate any circumstance, either on behalf of or against the bill, which had not been brought forward by counsel, it was fitting that such circumstance should be stated to the House, and afterwards solemnly inquired into; but if a new inquiry were proposed, then their lordships ought to pause, and to consider whether they ought not to instruct the Attorney-General to institute it, because it would be a fundamental violation of justice that the judges, after the evidence was closed, should examine fresh evidence themselves, without allowing the parties to the bill to enter into a cross-examination of it. He did not mean to dispute the right of the noble lord to put the question which he had asked; but he (Lord Holland) thought that he (Lord Lauderdale) ought, in candour, to have informed the House, that he had new matter to introduce, and that he ought to have asked their lordships' leave to introduce it. He could wish his noble friend to withdraw the question altogether; but if he would not consent to do that, then he (Lord Holland) thought that counsel should have a right to cross-examine upon it, and to ask for delay, if they thought delay necessary, in order to obtain grounds for cross-examination. Now, a word as to the expression "public prosecutor." He could not say that he did not feel sorrow when he heard their lordships called public prosecutors; and that sorrow was not at all alleviated by finding that their lordships did really stand in that situation. For, in point of form, who were the prosecutors except their lordships? The bill had been brought into Parliament in consequence of the advice given by a secret committee of their lordships; and the feature which rendered it so particularly hideous was this---that those who sat upon it sat in the collective capacity of prosecutors, judges, jurors, and legislators. In that anomalous position they were then placed; and if it sounded harsh to the ears of any of their lordships to be told so, he could only say

—— Pudet hæc opprobria nobis
Et dici potuisse et non potuisse refelli.

The Earl of Lauderdale thought that his noble friend had known him long enough to be convinced that he was the last man in the world to feel hurt in the smallest degree by any thing that could be said or done toward him. He was himself in the habit of using strong expressions, and therefore made allowance for others who

used them. There was one thing that made him indifferent to what was said of him—namely, the feeling that he was doing what was right. That feeling he had always enjoyed during the course of his life, and never more than during the present proceedings.

The Earl of Darnley rose to explain.—He did not mean to impute partiality to any noble lord in particular, but a public prosecutor there was, though he did not know who, what, or where this airy creature was. This, however, he did know, that great zeal was displayed in favour of this unknown and invisible personage.

The Lord-Chancellor then asked whether the counsel on either side of the bill had any other question to put to the witness.

Mr. Williams replied that he had, and proceeded to put the following questions through the Lord-Chancellor:—

Was the pilaster of which you spoke, on that side on which the men were at work on the cornice, or on the opposite side of the room?—The opposite side.

When you spoke of the persons employed by you, did you confine your answer to the workmen employed at Milan, or had you any others under your control, besides those?—Some are in the town, some go out, some go here, some go there, some must work, and some must direct.

How many had you under you, when you were at work at the Villa d'Este?—Before the long journey, there were forty or thirty-five bricklayers, besides the helpers; after the long journey, and after I had made the agreement and the contract for the other building, after I had given the estimate, that the whole was to be done in six months, I had under me two hundred and three hundred.

The witness was directed to withdraw.

Mr. Brougham.—I wish to know of my learned friend whether we can have access to Restelli. Is he here? is he in this country?

No answer being returned,

Mr. Brougham said, My lords, I wish Restelli to be called.

The Attorney-General.—If my learned friend wishes to call Restelli, he certainly can call him.

Mr. Brougham.—I wish to know if Restelli is in the country, and, if in the country, where he is?

The Attorney-General said, that whether Restelli was in the country or was not, his learned friend must take the ordinary means to procure his attendance.

The Lord-Chancellor.—Mr. Attorney, is Restelli here?

The Attorney-General.—No! He is sent to Milan.

Mr. Brougham.—I wish to know, my lords, whether, under these circumstances, after it is made known to your lordships that this individual, whose conduct has been so strongly implicated, has been sent out to Milan —I say, my lords, I wish to know whether I am to be obliged to go on with this bill?

The Attorney-General said that Restelli had been sent to Milan with dispatches, under the idea that he would not be again wanted. As soon, however, as that circumstance had come to his knowledge, supposing that Restelli might be wanted, he had sent a courier to desire his immediate return. If his learned friend had said that he would cross-examine him in the course of the defence, and if he had not rejected the allowance of time which had been offered him by their lordships, Restelli might have been present at this stage of the proceedings. If his learned friend had wanted Restelli, it was his duty to have communicated the fact to him, or to have got an order of their lordships, compelling his attendance. No hint had, however, been conveyed to him that Restelli was wanted. Their lordships had heard the cross-examination, and he put it to them, whether, on that examination, the questions which his learned friend wished to ask could be put? At any rate, if Restelli was his learned friend's witness, he must procure his attendance as he could.

Mr. Brougham knew nothing of the very urgent necessity for re-examining Restelli until the examination of the two last witnesses had closed: but one thing was clear—that his learned friend or his instructors (but who those instructors were nobody knew, though every body saw that they were very active) must have seen that he had laid a foundation for contradicting the whole of Restelli's evidence. He held it to be their duty to have kept Restelli here until he (Mr. Brougham) had produced evidence to contradict him. But if there was any thing which they ought not to have done, it was to send Restelli out as the agent of this —— Milan commission.

The Attorney-General said, that one reason why Restelli was sent out of the country was a desire to satisfy the general anxiety which prevailed at Milan among the relations of the witnesses about their safety, in consequence of the transaction at Dover. It was requisite to show that Restelli, who had conducted *them to* this country, and had himself given evidence

before their lordships, could return in safety, in order to convince the people at Milan that the witnesses had incurred no danger. He had expected that Restelli would have returned before this time. He was sorry that he had not; but it was impossible that he could have supposed that his learned friend would call him as a witness against the bill, and that he would, at the moment he was going to impeach his testimony, call him as his witness. If his learned friends wanted Restelli, they ought to have served him with an order of their lordships.

Mr. Brougham would not say a word in reply. If the witnesses were allowed to depart out of the country pending the proceedings, there was an end of the security which their lordships thought they possessed, that no perjury should be committed with impunity at their bar. Was he obliged under such circumstances to go on with this case?

Lord Holland immediately rose, and moved that counsel withdraw.

After counsel had withdrawn.

Lord Holland rose to state, in behalf of their lordships and the cause of justice, that the fact which had just come out at their lordships' bar, that subornation had been practised to a considerable extent, was absolutely monstrous. At the commencement of this unfortunate business a noble lord had risen in his place, and had suggested, very pertinently and very solemnly, that from the nature of the very extraordinary case into which they were going to enter, resting as it did on the testimony of persons brought from distant countries—upon persons of whom the accused party was totally ignorant—of whose relations, conditions, habits, and characters, the judges, the accused, and the counsel were equally uninformed—it was possible, nay, it was probable, that perjury would be offered at their lordships' bar. It was asked what security they could have against it, inasmuch as they could not hold over the heads of those witnesses the same responsibility that attached to those who usually gave evidence before the tribunals of this country? The noble earl over the way then rose, and, with great appearance of candour and moderation, said, that it was difficult for the government to assume any right, or adopt any provisions for compelling the witnesses to *remain in this* country. But the noble earl at

the same time assured their lordships, with great earnestness, that he would leave nothing undone; that he would do every thing in his power to secure full justice to the accused, and to protect their lordships from fraud and perjury. He (Lord Holland) had heard in the lobby of that House—he had heard in various parts of the metropolis—he had heard from various classes of people, from the highest to the lowest—much commendation bestowed upon the noble earl for the manliness of that declaration. What now appeared to be the case? Why, it appeared that out of those men who had been dragged to the bar of the House, and some of whom had probably been bribed, it appeared that that very man who had given the most revolting and disgusting testimony, not only had withdrawn, but had been actually sent out of the country as soon as notice had been given that his testimony was to be impeached. Gracious God! can your lordships—I ask it in the name of common sense and common feeling—can your lordships suppose that, after such a proceeding as this, great as is the reputation of your lordships, great as is the character of this House, which I have always been eager to uphold by every means in my power—can you suppose that we, who are subject to human failings and human infirmities, can stand in safety when opposed to the suspicion and the odium which such a proceeding must cast upon us? What is the case, my lords? Here is Restelli, who was employed, by his own confession, as courier to the Milan commission—here is one of the witnesses who stated the most disgusting and unnatural fact that ever was mentioned in a court of justice—here is this man, who is one of that description, regarding whom you were told that every step should be taken that could be taken by the limited authority of this government (and there are some who wish that it were not so limited), to prevent them from being withdrawn from justice;—here is this very man, I say, upon whom suspicion now rests that he has been engaged in suborning witnesses for this prosecution, not merely escaping, but sent away by the government! If your lordships submit to be dragged through the mire in this manner—if, after having solemn promises made to you, you permit them not only to be evaded, but even to be counteracted by those who made them, then are your proceedings a mockery *and a burlesque.* You will taint, not merely your pre-

sent proceedings, but all your future measures; you will taint this branch of the legislature, and will involve the country, already reduced to great distress from having blindly followed the counsels of these self-same men upon other points, in still greater distress, and will place its institutions in the utmost jeopardy and danger. He therefore said, with his noble friend (Lord Carnarvon), who had made such a solemn appeal to them that morning, that this matter ought to be set right, or that, considering all these circumstances as forming a *prima facie* case of the existence of a conspiracy to pervert justice, they would do well to get rid of the disgust and fatigue of this infamous proceeding.

The Earl of Liverpool thought that, after the speech of the noble baron, he had a claim upon the indulgence of the House, and he would, therefore, ask their lordships whether, without any explanation of the circumstances, the attack which had been just made upon him was justified by the facts of the case, or by any thing which they knew of his character? He would appeal to their lordships whether, when he gave an assurance to the House, it had not always been his practice to see it carried into effect? and he would defy any noble lord to show that he had at any period of his public life held out an expectation which had not been fulfilled. The attack upon himself he would thus repel, and, with regard to the rest of the case, he would now proceed to state that the noble baron had given a most erroneous, fallacious, and inflammatory view of it. He was ready to admit that it was the duty of those who conducted the bill to secure, as far as possible, the continuance of all the witnesses in the country, until the close of it. He was ready to admit that the sending away of Restelli was highly culpable in the quarter that authorized it: but, admitting this, he must, in the first place, acquit himself of all knowledge of that transaction; and, in the next place, he must assure them it was as unknown to the Attorney and Solicitor-General as to himself. He would ask their lordships, then, if this circumstance authorized the suspicion that a conspiracy existed to pervert justice? What was the case? Restelli had been employed as a courier in bringing to England the witnesses for the bill; and, upon the adjournment of their lordships for three weeks, it had been thought by one of the agents for the bill that certain services which were to be per-

formed at Milan would be better performed by Restelli than by any other person. He had, therefore, sent him thither, under the idea that he (Restelli) would be back before the present moment. He (Lord Liverpool) thought that the idea was erroneous. The motive, however, he believed to be good and honourable; and he did not think that the person who had sent Restelli abroad had done it with any intention of withdrawing him from justice. As soon as the circumstance of Restelli's being abroad became known to the Attorney-General, he ordered a person to be sent out with orders for his return. That was the plain statement of the case. That was the unvarnished tale which he had to tell; and he left it to their lordships to decide whether there existed any grounds for asserting that a conspiracy was on foot to defeat the ends of justice.

The Marquis of Lansdowne admitted the explanation of the noble earl to be perfectly satisfactory. This was an admission which the noble earl's character demanded. But, having said that, he must state that it was one additional evil to those which they had already suffered in the course of this investigation, that it put such a man as the noble lord under the necessity of making such an exculpation as their lordships had heard that morning. He begged leave to call to their recollection, that, whilst they were acquitting of the criminality which would attach to their proceedings, if they were proved to have originated with government, they were likewise bound to consider what effect they might produce on the interests of the illustrious client who was now at their bar. And if, notwithstanding the efforts and injunctions of the government, it should be found that their own agents, bad, wicked, and despicable as they were, had acted in direct opposition to them, he would ask whether it was fitting that they should visit that illustrious lady with the effects of that villany and wickedness which the persons who employed such agents were now obliged to disavow? He called upon their lordships to consider the necessity of adhering to the rules which they had laid down in the course of this proceeding, and by which they determined in the outset that they should be bound. He was not now making these remarks owing to any thing which had arisen out of the late cross-examination; but, independently of that examination, he *would* ask them whether it was not proper to enable the

house to satisfy itself upon any matter of doubt which might occur in any stage of this proceeding, that the witnesses should be forthcoming immediately? Was the rule which they had made for that purpose of no importance? Had they not found it to be of the very utmost importance? Had they not been able, in consequence of it, to recal Majochi to their bar without any intervening delay? Had they not also been able to recal Carrington, who had been very properly recalled at the request of the noble lord at the head of the Admiralty? What, then, was he to believe, when he found that Restelli, who had given so important evidence, and who ought to be confronted with the two last witnesses immediately, and before he could have any notice of what they had deposed, had not only disappeared, but had been actually sent out of the country? And then their lordships were to hear it gravely asserted by his Majesty's Attorney-General, that the people of Milan could not be satisfied until they saw the courier Restelli! That Restelli's person must be seen by them, as if it were a certificate, before they could believe that their friends in England were alive, and giving round assertions at their lordships' bar! When he heard that assertion made, he saw immediately that there was no adequate reason for taking that step for which the noble earl had, with manly candour, confessed that blame did and must attach somewhere. It was incumbent on their lordships to do all they could to repair the error which they had committed. What effect it ought to have on their future proceedings he would leave it for their lordships to determine.

The Lord-Chancellor claimed no more credit than was due to him when he said that he knew nothing of the sending Restelli out of the country. He confessed that it was a most ill-timed and ill-judged proceeding. But the well-known character of the person who had done it was a proof that it was not an error of intention, but merely an error of judgment. If it were an error of the former kind, strong language might properly be applied to it; but if it were merely founded on mistake, he thought that the opprobrious terms which had been used did not apply to it. But it was said that great injury must be done to the illustrious accused. He allowed it. But what was the course which it was now proposed *to adopt?* To call Restelli to the bar? That

course, unfortunately, could not be complied with; and he thought that considerable allowance ought to be made in favour of her Majesty, since he could not be brought there to-day. Their lordships must therefore act upon this principle, that the examination, when gone into on a future day—would not be so beneficial to her Majesty as it would be at present: and when they recollected that circumstance, they must give her the benefit of it, in the language of the law, liberally and largely. The noble marquis had said, that it was their duty to repair the injury which they had done her Majesty; but he (the Lord-Chancellor) said it was beyond their power to do it. Should they be doing her justice by closing the case in its present stage? No man living could lay his hand upon his heart, and say that this would be doing her justice. If, then, justice could not be so done, the proceeding ought not to be stopped; but their lordships, when called upon to decide on the case, must make such allowances for her Majesty as he had before recommended.

The Earl of Carnarvon fully agreed with the learned lord who had just sat down, that there was nothing which they could do that would repair the injuries they had done to her Majesty in the course of this investigation. What, then, was the only remedy left them to adopt? What was the only step which they could take to do her Majesty justice? It was now to put an end, once and for all, to this base and infamous proceeding. How did the case now stand? Her Majesty's defence was interrupted in a manner the most unwarrantable, and the most extraordinary; and, by the admission of the noble and learned lord himself, she could not be restored to the situation in which, if the witness were not sent away, she would have been placed. This occurrence he did not attribute to the noble earl, but to the agents of the government. Here he called on them to stop. Had not they long enough outraged public feeling, disgusted common sense, and disgraced the country, by hearing at the bar of the House, from day to day, that abominable ribaldry, which had been resorted to on this occasion, he knew not for what practical purpose? They ought to consider, whether they were not, by their proceedings, rendering themselves objects of execration to every Englishman, and of contempt to all the rest of *Europe*? How was it that the learned lord proposed to

remedy, as well as he could, (for he admitted that no perfect remedy could be discovered,) the default of those with whom the present subject of complaint originated? There was proof that an extensive system of subornation of perjury existed, which they were prevented from probing to the bottom. Well, therefore, might the noble and learned lord admit that substantial justice could not be done. With whom had this gross error originated? Certainly not with her Majesty's counsel, but with his Majesty's ministers; or, if not with them, some department connected with the prosecution. The case, if, indeed, it could be farther disgraced, or rendered more odious, was, by this last circumstance, reduced to the lowest pitch of infamy. Let their lordships consider well, that if there existed in the other House of Parliament any portion of the spirit which animated the country—if the members of that House had any concurrent feeling with the great body of their constituents—the bill would be defeated there, should their lordships persist in passing it on such evidence as had been adduced at their bar. If they should send it farther—if they should send it to the other House of Parliament—it would tend only to keep up that agitation by which the country had so long been distracted, and which threatened to bring into discredit, nay, to overthrow, the most glorious institutions in the world. These sentiments did not occur to him on the spur of the moment, neither were they the offspring of any angry feeling; they were called forth by the temper which he observed amongst their lordships, and by the feeling with which the public mind throughout the country was evidently actuated. If, for a long time, he had abstained from addressing the House on this subject, it was wholly occasioned by deference to their lordships. He would certainly take the sense of the House on the motion he was about to propose, and he implored their lordships, for the honour of the country, for the honour of that House, for the honour of human nature, to proceed no further with a measure, which, if urged forward, must inevitably produce evils, from the baleful effects of which nothing could save them. The noble lord concluded by moving, "that this bill be read a second time this day six months."

The Lord-Chancellor.—I rise merely to explain. I *never could enter this* House again, with quiet to my

mind, if I admitted, as the noble earl asserts, that this House could not do substantial justice. I am decidedly of opinion that it can do substantial justice. Allowing liberally and largely for the circumstance that has happened, so far from being unfavourable to the individual, it may turn out, on the contrary, to be extremely favourable to her Majesty. It is impossible, therefore, to say that the House cannot do substantial justice.

Lord Ellenborough understood his noble and learned friend to say, that a great difficulty existed, and that it would be impossible to place her Majesty precisely in the same situation as that in which she would now stand, if it were practicable to call Restelli to their lordships' bar; but, he added, that when their lordships came to consider the state of the case, they might, by making large and liberal allowances, if not entirely place her Majesty in the situation in which, under other circumstances, she would have been placed, be still enabled to do substantial justice, and to obtain that object at which they all wished to arrive. Such being the situation in which they were placed, what was the proposal of the noble earl? It was one entirely contrary to all justice—fatal to her Majesty's character—wholly unsatisfactory to the country,—and in every respect opposed to that course which he thought it was their lordships' bounden duty to pursue. In considering this bill, two questions naturally arose in the mind of every person. One question was, whether her Majesty was guilty or not guilty. Another question was, (and one, which he apprehended, was totally distinct,) whether, on the evidence adduced at their lordships' bar, they would pass this bill? He conceived, from what had fallen from the noble earl, when he introduced this measure, as well as from what had since been said, that their lordships never would pass this bill, unless on such evidence as must carry conviction at once to the mind of every reasonable man in the country. This being the opinion he had formed, he had never indulged in the apprehension which seemed to fill the mind of the noble earl who had recently addressed the House. He (Lord Ellenborough) always thought that their lordships would never pass this bill, unless on evidence so clear, so perfect, and so convincing, that it would be contrary to the honour and character of the House to decline passing it, when that evidence was laid before them. The case *might*, however, be extremely different. It was possible

that such a defence might be made out at the bar as to induce their lordships not to pass the bill, although it might not be such as to induce them to consider her Majesty entirely innocent. For the cause of truth and justice, therefore, he entreated their lordships to hear the whole of the case, and not to break into the middle of it—not to adopt a proceeding that might possibly leave on the mind of every noble lord a moral conviction of her Majesty's guilt.

The Earl of Carnarvon said a few words in explanation.

The Earl of Darnley was of opinion, that, before they came to any vote on the proposition which his noble friend had made, her Majesty's counsel ought to be called in, and asked whether the absence of the witness Restelli would be injurious to their client's case?

Earl Grey said, he never in his life entered on a question with more reluctance, or felt a greater degree of difficulty, than he experienced on the present occasion. Undoubtedly, if he had looked at the subject precisely in the same way that his noble friend had done, he should have expressed, with all the warmth of his noble friend, his indignation at the extraordinary circumstance that had occurred: for he must say, that, by the explanation of the noble and learned lord at the table, it appeared that they were now placed in a situation in which, according to the noble and learned lord's own statements, substantial justice could not be done. What was the statement of the noble and learned lord? He stated that by the abstraction of the witness at the present moment, and the impossibility of producing him now, an injury might be done to her Majesty's defence, which it was out of the power of that House easily to repair. Why then, if that was the situation of the case, if the Queen was deprived of those means of defence which, if resorted to at that moment, might be rendered effectual, and if the necessary means of defence were not fully supplied to her hereafter, he would ask, whether it did not follow as a plain and inevitable consequence that the defence was to a certain extent injured, and that substantial justice could not be done? Under these circumstances, he felt himself placed in a situation of very great difficulty; he felt all that had been stated with respect to the disadvantage of interrupting the defence before this witness was called; and he would perhaps be better satisfied if his noble friend did not persevere in his motion. But feeling that the House was

placed in a most unlooked-for situation—feeling that there was no possible remedy for the act committed by the agents for the prosecution—if he were asked on that ground whether the proceeding ought to be continued, her Majesty being deprived of those means of defence which ought to be afforded to her, he should, however reluctantly, be obliged to assent to this proposition. Let their lordships consider the difficulties into which they were plunged. In the first place, he would direct their attention to the contradiction of this witness's testimony. No man could say, that if he were called up immediately after what had been disclosed to their lordships, his examination would not be materially different from what it would be at any future period, when information had been supplied to him with respect to all that had passed on this subject. Thus an irreparable injury would, in this instance, be done to the Queen. But there was more injury than this. His noble friend had stated, perhaps a little hastily, that subornation of perjury had been proved. He (Earl Grey) would not say that; but he would say, that a strong statement had been made by the witness recently examined, which must show that the individual who had left this country had at least been engaged in endeavouring to suborn other witnesses. What had they heard this day at their lordships' bar? They were told that Restelli went to a witness and offered him a certain sum of money for his evidence: that that witness went to a second, the second to a third, and so on: to each of these witnesses a similar proposition had been made. He (Restelli) did exactly that, (and he hoped he should not be chided for making any observation that seemed to reflect on the evidence which had been given,) but he did exactly that which was likely to influence those witnesses who deposed to the story of Adam and Eve, and other circumstances of a similar nature—points which struck him at the moment as having been obtained in this improper manner. He was not charging a conspiracy on the noble earl opposite; but when such a suspicion was raised as had been excited by the evidence given that day—namely, that if the witness who had quitted this country were examined before any information relative to what had just occurred could be afforded to him, it would render the defence of her Majesty complete and triumphant over the worst conspiracy that *ever* was formed to ruin the character and destroy the

honour of an individual; and if the circumstance of delay rendered it impossible, as it did according to the admission of the noble and learned lord, that the examination could be pursued effectually and satisfactorily hereafter—then he must contend that, in consequence of what had happened, the House was placed in a situation in which substantial justice could not be done; and if his noble friend persevered in his motion, it must undoubtedly receive his (Lord Grey's) assent, more especially when he coupled the circumstance with the appearance which the evidence had assumed in the course of this proceeding. Thus far he had stated his sentiments with respect to the motion then before the House, and he would now offer a few observations on the fact itself. It was impossible to hear the fact stated, that this man was withdrawn from the possibility of immediate examination, without reprobating the measure in the strongest manner. The noble earl opposite had done no more than justice to himself when he condemned this proceeding, by applying to it the mild and gentle appellation of "ill-judged." In speaking of it, he would not use such a term. It was not only ill-judged, but he would say that it was most iniquitous. In such a case it was of little use to speak to the characters of those who were implicated. They could not but be aware, generally, from their professional knowledge, and their knowledge of this case, that it was proper and expedient to keep witnesses of this sort in the country, that they might be forthcoming in case any necessity should arise for examining them more minutely. But if ever there was a witness who, from the particular nature of his testimony in chief, as well as from the particular nature of the facts disclosed on his cross-examination, if ever there was a witness whom every person acquainted with the proceedings in courts of justice must have seen the necessity of examining still further, Restelli, he would say, was that witness. The noble earl (Liverpool) had observed, that he trusted his known character would remove from him any suspicion that he had taken a part in this proceeding. He agreed with his noble friend (the Earl of Carnarvon) in giving to the noble earl all the weight and credit which his high character deserved; and when the pledge was given to that House by the noble earl, in consequence of a formal statement on the subject, that every thing

should be done as far as he could contribute assistance to further the ends of justice by keeping within the country all the witnesses introduced in the course of this prosecution, the House, with that confidence in the noble earl's character which it deserved, gave credit to that assurance, and rested with perfect security on it. But if, having given their lordships that solemn pledge, sanctioned by all the weight and authority of his character, the noble earl found himself in this extraordinary situation, that those who ought to obey his instructions, and attend to the pledge he had given to that House, and which a sense of duty should have taught him to respect—if those persons were found to have deceived both the noble earl and the House, what possible security could he have that the ends of justice would not be defeated; or what right had their lordships any longer to assume that the commands of the noble earl would be observed, when they perceived that those agents who ought to act in strict obedience to what he had directed, had, in defiance of the noble earl's pledge, sent a witness out of the country, and rendered it impossible that his examination could be so effectual as it otherwise might have been? But in what situation was the Queen placed by this circumstance? Her Majesty's counsel had trusted implicitly to the noble earl's assurance that the witness should not be suffered to depart; but the moment an important circumstance called for the re-examination of one of them, they found that the pledge was nugatory, that no one was answerable for the appearance of the witnesses, that a subordinate agent had sent away one of them, and that in consequence substantial justice could not be done to her Majesty. He must say, whatever their lordships might do, whatever course they might be pleased to adopt, that the whole proceeding could not be too strongly reprobated. Looking at its original introduction, taking its details into consideration, viewing all the circumstances connected with it, and marking, most particularly, the circumstances of the defence of this illustrious person, he must again repeat, that it seemed to him that they were placed, by the forfeiture of the assurance which had been distinctly given to them, (he meant nothing personal to the noble earl opposite,) in a situation which prevented them from doing substantial justice to the accused party. *If, therefore,* he was driven to decide on this proposition,

whether they should or should not continue this proceeding, he would say, "let it not be continued." The noble lord (Ellenborough) speaking of the mode in which the business was to be decided, observed, that there were two questions for their lordships' decision—one, whether the Queen was guilty or not guilty; the other, whether the bill should be passed on the evidence that had been adduced; and he added a sentiment in which he (Earl Grey) entirely agreed with the noble lord, that, in a case of this nature, there ought to be clear, incontrovertible, unsuspicious, and unsuspected, evidence, to induce them to come to a decision against her Majesty. But he would state, that, on a proceeding of this peculiar description, a proceeding which the noble earl opposite had recommended, and to which he must adhere, with all its circumstances, it was impossible for their lordships to separate those circumstances so as to give an opinion on two questions. They had arrived at the second reading of this bill, and on that second reading, the first question must be, simply, aye or no—on that point their aggregate opinion must be given—there was no question of an intermediate nature. He had stated thus much, viewing most painfully what had happened, and looking at the debates that had taken place, on or before that day, as nothing more than a strong and powerful illustration of all those evils which he had deprecated from the beginning—evils that had been summed up in a compendious observation, which had fallen from a noble lord on the cross-bench, who had stated to their lordships "that the House were placed in a situation, in which, from their habits, they could not appear to the public to be doing justice."

The Earl of Liverpool said, if the fact really were, that, from the circumstance which had occurred, substantial justice could not be done to her Majesty, he would agree with the noble earl that the proceeding should be suspended altogether. But the noble and learned lord on the woolsack did not state that substantial justice could not be done. He said, on the contrary, that the consequence of the event in question might possibly be beneficial to her Majesty. The noble and learned lord exemplified the position in this way, and he considered the reasoning to be correct—namely, that they were bound to give her Majesty the full and entire benefit, as far as she was concerned, of all the

evidence adduced against the testimony of Restelli. And although it might be possible that his evidence with respect to her Majesty could, if doubted, be explained, that still, under the circumstances of the case, such explanation should be entirely put out of the way. Here, therefore, her Majesty might receive a decided advantage. Now, how could their lordships put this great cause, which they were engaged to decide, on an issue such as this? He would assume that some improper proceedings took place at Milan; he would assume that the Milan commission had acted improperly; he would do this for argument sake, (because he knew the government had authorized no impropriety; and, while he admitted that the fact relative to Restelli was a most serious one, he must observe, that with respect to all the other proceedings of the commission, so far from any thing improper being proved, rather the reverse was manifested;) but assuming all this, and looking to the whole of Restelli's evidence, it would be found that the case did not stand on that evidence, but that it still rested on the evidence of others—of some who had never been at Milan, or who, having been there, never had any communication with Restelli, or any other person of that description. It was therefore possible, that such a case might be made out on this evidence as would induce their lordships to find her Majesty guilty of the charges stated in the preamble of this bill. Then, he contended, that the argument of the noble earl was, in this view of the case, completely erroneous, because there was no question whether substantial justice could be done. It was quite clear that it could. Nay, the consequence of the situation in which the defence was placed, by the circumstance complained of, might be to deprive the prosecution of the advantage of a great body of evidence, to which access might have been had if this obstruction had not occurred. He would ask their lordships this, and he put the question to them most seriously, whether, with the evidence on the part of the accusation, and the evidence on the part of the defence, as far as it had gone, and considered in all its bearings, it would be possible, consistently with what was due to the character of the Queen, to suspend the proceeding in its present stage? Would it be possible to satisfy the public mind, or to do substantial justice, if the case were *now* left without coming to any decision upon it? What-

ever might be the final determination, whatever fate in the end might befal the bill, sure he was that the whole case ought to be heard. By hearing the whole of the evidence on both sides, and by that means only, could the House arrive at a just and safe conclusion. He had no difficulty in saying that the House owed it to the honour of the Queen, and to the honour of the country, not to shrink from the question, whether the preamble of the bill had or had not been established. Without anticipating any future questions that might arise, he thought it right to say that nothing could be more unfortunate, nothing in his view more ill-judged, than to smother the main point at issue, the guilt or innocence of the Queen, in questions of mere policy and expediency. By some mode or other the House ought to go to the end of the inquiry, and decide whether the preamble of the bill had or had not been proved. Such was his deliberate opinion of what was due to justice and to the Queen. He had already said that if he thought the ends of substantial justice would be defeated, he should agree with the noble lord; but he wished to say one word on what had fallen from the noble earl who spoke last, as to the flagitious conduct of the individual who sent Restelli to Italy. He allowed that it would have been a flagitious act if the object of it had been to withdraw the witness from justice, but he (Lord Liverpool) was most conscientiously convinced that the gentleman who had been the occasion of it had had no such intention, but had felt convinced that the man would have returned before the House arrived at the present state of the proceeding.

The Earl of Lauderdale rose amid some confusion. He was very anxious to state his feeling upon what had passed in the course of this discussion, and upon the situation in which the House was placed. He must, in the first place, observe, that the proposition of the noble earl arose out of a complete misrepresentation of what had fallen from the noble and learned lord. He had never said, and he (Lord Lauderdale) never understood him to say, and could not conceive how any man could have supposed him to say, that it was impossible that substantial justice could be done to her Majesty, because Restelli was withdrawn. The proposition was so absurd in itself, that it was impossible that the noble and learned lord could have uttered it: on the contrary,

he had urged that it was not improbable that the circumstances might turn advantageous to the Queen. And what was the nature of the proposition to rectify this supposed injustice? It was this—that after the whole of the evidence in favour of the bill had been heard, and half the defence had been gone through, the House should stop short and proceed no further. This the remedy would, in truth, be the grossest act of injustice that had ever been suggested to any tribunal. It had been formerly urged, that even the slightest delay between the charge and the defence was an atrocious proceeding, and it came from the same individuals who now recommended that the Queen should be permitted only to go through half the case that was to vindicate her in the eyes of the world and posterity. All men were bound to consider her innocent until she had failed in disproving her guilt, but here it was recommended that her Majesty should be deprived of the opportunity of doing so. But their lordships were bound to consider not merely the interests of the Queen, but the interests of the country; and suppose it were asked why the proceeding was stopped, why the Queen was permitted only to be half defended, what would all the countries of Europe, or any independent man on the face of the globe, think of the answer, that this crying injustice had been done because an Italian courier had been sent to Milan? But his noble friend (the Earl of Carnarvon), on the absence of this Italian courier, meant to found his charge of conspiracy; but he (Lord Lauderdale) put it to their lordships whether there was one among them who believed that Restelli's absence was the consequence of any deep-laid conspiracy? Was the absence of this courier any proof of its existence? or would this circumstance be assigned as a reason why a stain should continue upon the crown of England, which, if the opportunity were afforded, might perhaps still be shown to be pure and unsullied.

The Earl of Morley entreated the noble lord whose motion was under consideration not to press so important a question to the vote, in the present unprepared state of the House. The report of the secret committee had stated, that certain grave accusations had been brought against her Majesty, and that it was important that they should be examined by a legislative proceeding. The view he had taken of the case was precisely

in accordance with that report; and since impeachment was, in many respects, infinitely inferior, he knew of no means by which justice could be obtained so effectually as by the machinery now in operation. Without pledging himself as to the result, he had therefore given his vote for this proceeding; though he felt that the question of expediency still remained, even supposing the truth of the preamble of the bill fully established in evidence. Whatever might be the facts attending the absence of Restelli, it was a duty which the House owed, even to posterity, to bring this inquiry to a conclusion: and whatever degree of injury the cause of the Queen might receive, upon which he did not pretend to decide, every principle of justice required that the counsel should be allowed to proceed with their defence.

Lord Alvanley felt convinced that the absence of Restelli was to be attributed solely to an error in judgment. He wished to learn who was the individual that had sent Restelli to Milan, and whether he was one of the Milan commissioners.

The Earl of Liverpool said that it was Mr. Powell.

The Earl of Carnarvon said, that he wished the following question to be submitted to the counsel for the Queen: whether the immediate attendance and examination of Restelli were material to their case? He was anxious, in the first instance, to hear the opinions of the learned gentlemen upon this point; and he should then, perhaps, be better enabled to judge, what step ought next to be taken. Though nothing, not even the speeches of counsel, could alter his opinion that for the sake of the country, and for the sake of the House, it ought not to proceed further in this inquiry, yet he felt bound to submit with deference to the opinions expressed by noble lords more experienced than himself. For this reason he should not press to a division the motion he had offered; though he was convinced that public feeling had long ago had enough of the proceedings of the House upon this subject. The first hour the public should learn that their lordships had determined to quash this business, it would be hailed by an unanimous acclaim of joy and gratitude.

The Earl of Blessington felt it necessary to make a few observations. It had been very properly asked, who was the individual who sent Restelli to Italy; and the noble *earl (Liverpool)* had avowed, with that candour

which always distinguished him, that it was Mr. Powell. He (Lord Blessington) had the honour to be acquainted with that gentleman, and he should be sorry, that because he was a Milan commissioner he should be supposed to be a party to any conspiracy against the Queen. Perhaps he (Lord Blessington) regretted as much as any man that Mr. Powell had had any thing to do with the Milan commission; and sure he was that he had not willingly subjected his conduct on the present occasion to the observation of the House.

Lord Alvanley repeated, that he charged nothing more against Mr. Powell than an error in judgment, though that error was deeply to be regretted.

The Earl of Blessington concurred in thinking that it was highly improper, under all the circumstances, to send Restelli to Italy; but he was satisfied that no undue motive existed in the mind of Mr. Powell.

Lord Holland owed it to himself and to the noble earl opposite to assure the House, that at the time he made his remarks, and before the noble earl had spoken on the subject, he (Lord Holland) was satisfied that he was neither directly nor indirectly a party to the transaction. He founded this conviction upon the character he entertained of the noble earl; for though, on many occasions, they were in political hostility, he was ready to acknowledge that on neither side of the House did he know any man less capable of doing what was dishonourable or unbecoming. If he had thus thought before the noble earl had spoken, his opinion was more than ever confirmed by the manner in which he had met the question. While, however, he acquitted the noble earl of the slightest participation in any thing like intrigue or conspiracy, his feelings upon the subject remained entirely unaltered. After the disclaimer of the noble earl, and a few minutes' calm reflection, he still felt bound to say, that the noble earl, on this occasion and others, had undertaken to do more for the House than experience showed he was enabled to perform. The noble earl admitted the proceeding now complained of to be culpable: but when he gave the pledge that no witnesses should leave the country, he ought to have fairly avowed that he had no power to retain them, that they might, if necessary, be subjected to trials for perjury. If the noble earl had thus confessed that there were certain inferior persons, over whom, in this respect, he had no con-

trol, the House would, probably, have adopted a resolution very different from that to which it had arrived. It had, in fact, relied upon the assurance of the noble earl that he would do his utmost to prevent what had now really occurred. Perhaps the noble earl had done all that was possible in his situation: but what the House required and expected had not been performed. Without cavilling, therefore, about words—whether substantial justice could or could not be done, or whether her Majesty's defence was injured—he must say that the House was placed in a situation which prevented it from inquiring into the allegations of the preamble with any probability of arriving at a satisfactory conclusion. His noble friend on the cross-bench (Lord Lauderdale), who met every subject with good humour, who possessed excellencies of many kinds, and from whom he (Lord Holland) never differed without regret and diffidence, had contended that it would be the greatest possible injustice to stop in the middle of her Majesty's defence. He (Lord Holland) confessed that he was made of sterner stuff on this occasion than his noble friend; he was ready, and had been ready from the beginning, to quash this proceeding; and if the motion to-day submitted had been persisted in, he should have given a vote consonant with that opinion. He felt bound to say that the defence had not only been interrupted, but that it was impossible that it could now be continued with the same advantages it had before possessed. In the course of the preliminary discussions it had been asserted by the noble earl (Liverpool), that the mode in which this great question was investigated was most beneficial to the party accused, under the supposition that she was guilty. This seemed, at the time, a strange kind of panegyric; only intelligible, in its full extent, to those who were so prodigiously anxious for the honour of the Queen, and, at the same time, that justice in mercy should be extended to her Majesty. When they said, "do not stop in the middle of the defence," they in fact meant to deprive her of one great advantage held out by the noble earl in the first instance. His noble friend (Lord Lauderdale) had declared, that he never heard of such a proposition as stopping a proceeding of this kind; but had he never yet read of a party to a suit being nonsuited for want of evidence? He (Lord Holland) was not well informed upon such subjects; but he begged to ask if no

instance was to be found of a trial being interrupted in a court of justice, in consequence of something improper in the conduct of one of the parties, before the jury was called upon to decide on the main question at issue? It would rather be supposed that the other side were arguing on the analogies of law in France than in England. Here, if a man were accused of murder and it came out that he was only guilty of a crime of a different complexion, he had the benefit of his plea of not guilty to the greater offence. He had the advantage of a complex proposition, which, if it failed on one point, failed on all. Yet the Queen, in a case of this importance, and after all that the noble earl (Liverpool) had said in the commencement, was to be deprived of the advantage of this complex proposition. Much fault had been found, and justly found, with the conduct of the individual who had sent Restelli to Italy; and it had drawn from the noble earl a declaration that that individual was free from any criminal intention. He (Lord Holland) recollected Lord Thurlow to have said that he would not take any notice of the conduct of persons in office on occasions like this; because, to make observations was to afford an opportunity of a fulsome panegyric, not only upon gentlemen immediately in place, but upon all those incidentally connected with them. This remark had been illustrated to-day; for, no sooner was the conduct of the individual who had sent Restelli out of the country called in question, than he was immediately pronounced to be a person of most excellent qualities, who had merely committed an error in judgment. In fact, it might be said to be enough for a man to be employed by government, or to be employed by one who was employed by government, to invest him with all imaginary virtues. Thus persons in office were gifted with all descriptions of good qualities: the gentleman whose conduct was now before the House was a person in office: *ergo*, he was gifted with all descriptions of good qualities. Another point connected in this discussion regarded the Alien Bill; and, though he would not now go at length into it, it was obvious that it formed a very material consideration, and that, as had before been frequently shown, it might be exercised in a way injurious to her Majesty's defence. The noble and learned lord (Eldon) had asserted, that supposing Restelli did not return, the Queen would have all the advantage to be de-

rived from his absence. It ought, however, to be recollected, that Restelli was not wanted, at the present moment, to be examined as to the testimony he had previously given, but as to the actual existence of a conspiracy against the Queen; whether connected with the Milan commission or not, he (Lord Holland) would not decide. It might, perhaps, be supposed, that Restelli, if he were here, would prove the existence of such a conspiracy: and did the noble and learned lord mean to be understood, that if the witness were not produced, it was to be concluded that such a conspiracy really existed? That could not be meant: and yet, if the noble and learned lord did not mean that, he could mean nothing. It was quite clear that, if the formation of a conspiracy against the Queen were satisfactorily made out in evidence, their lordships would throw out the bill without hesitation. It was thus clear that the ends of substantial justice might be evaded; because Restelli was not here to prove that which, without his testimony, would never be inferred. Then arose a question as to the situation in which the court was placed; and how, under all the circumstances, it was possible to avoid doing injury? It was very true, that if there was nothing in the accusation against Restelli—if he could not establish a conspiracy, or any thing like it—his absence might operate to the advantage of the accused: but if, on the other hand, Restelli could prove that the Milan commission was connected with a conspiracy against the honour and character of her Majesty, and could bring home the charge, justice could not be done without his presence. He (Lord Holland) did not, therefore, stand up for the extension of any indulgence or mercy to the Queen, but for the court itself; because he did not like to go on in a course which, happen what would, the judges could not lay their hands upon their hearts, and say "We are satisfied that full justice has been done." If this distressing situation were owing to the laches of the noble earl, he was quite sure that it only arose from an error in judgment. He would not, however, suppose that there had been the slightest neglect of duty on the part of government, and he gave ministers full credit for having done their utmost. Still, the very thing apprehended at the commencement, and against which the assurance of the noble earl was the security, had happened: the course of justice had been perverted, and it was much

better to stop altogether than to persevere in a road which could lead to no satisfactory termination.

Lord Erskine said, that though he was ready to vote, with his noble friend who spoke last, to put an end to the whole proceeding, and though an almost irresistible reason had been this day afforded for doing so, yet, as the noble earl (Carnarvon) had withdrawn his motion for this purpose, he should not think it necessary yet to declare his opinion by his vote. He should now move that the question suggested be put, and that the House should then adjourn, thereby giving the counsel an opportunity for consideration.

Earl Grey observed, that as Mr. Powell's name had been mentioned, he ought to be called to the bar to account for his conduct.

The Lord-Chancellor remarked, that it was now half-past 4, and that it might be better if Mr. Powell were required to attend to-morrow. The House, however, manifested a decided wish that Mr. Powell should be immediately examined; and counsel were again called in.

JOHN ALLAN POWELL, Esq. was called in, and having been sworn, was examined by the Lords.

Earl Grey.—Were you employed under the commission at Milan?—I was.

Are you at present the agent in the support of this bill?—I am assisting the agents in support of the bill.

Were you present in this court at the examination of Restelli?—I was.

State then why you sent Restelli on a mission out of the country?—I recommended that Restelli should be sent.

To whom did you recommend that?—I recommended it at the Foreign-office.

Was it at the Foreign-office you applied to have Restelli sent on a foreign mission?—As a courier.

Did you get passports for that purpose at the Foreign-office?—I did not.

Can you state who did?—I did not.

But you applied at the Foreign-office; you recommended he should be sent on this mission?—If your lordships will allow me; I will give the explanation: Restelli had been the courier who had conducted a great number of witnesses to Dover; those witnesses had been maltreated by the populace at Dover; they were afterwards sent into Holland.

Do you speak to your own knowledge when you say they had been ill-treated at Dover?—I speak from the information of Restelli. I am stating the motives that induced me to make that recommendation. I learned that various reports were propagated in Italy of the dangers which the witnesses for the bill ran, by coming over to this country. I had heard that reports were propagated in Italy that they had received great personal injuries. I had heard that the families of those persons who were here were exceedingly anxious upon the subject of their relations who were in this country. I had understood Restelli to

be acquainted with the greater part of the families of those persons, and I considered that it would be an act of humanity to those relations and friends, that some person who had seen the whole of those witnesses in this country, and who was acquainted with those families, should go over there with letters from the witnesses, and having himself been an eye-witness of their safety here, that he should report to those families what their situation really was, and by that means that he should put an end to the great anxiety which I thought those families must necessarily feel for their friends.

Admitting this to have been your motive, did you not know that by sending Restelli out of the country it would be impossible to examine him here upon the subject of his evidence, if a necessity should arise for that?—At the time that Restelli was sent away, which I think was the Thursday or Friday after the adjournment of the House, I conceived that there would have been ample time afforded before any such necessity could arise: my instructions to Restelli were specific, as far as I recollect, that he was to return here on or before the 3d of October; and at the time that Restelli went, I had a firm conviction in my own mind that he would so return.

Whom did you see at the Foreign-office when you made the representation you have stated?—It was either Mr. Planta or Lord Clanwilliam, I am not certain which, to whom I think I stated that Restelli was to be sent as a courier to Italy.

Did you state to the persons at the Foreign-office, whoever they might be, that Restelli had been examined as a witness at this bar?—I do not recollect to have made such statement.

Did you state who he was?—I believe it was perfectly known who he was.

Have you had any communication which enables you to state whether it is probable that Restelli will soon again be in England?—I have every reason to believe that he will soon be in England, because the most positive directions have been sent, that he should be sent over; that every means should be used to make him come over here.

When were those directions sent?—They have been sent two or three times; the last directions were sent on Saturday or Sunday, the most positive directions.

Has any answer been received to the first directions?—I have learned that Restelli had for some days been violently ill, and confined to his bed with a fever, having been blooded and attended by some medical person.

Lord Alvanley.—Did you ever receive any directions from his Majesty's government not to allow any of the witnesses, as far as you could prevent it, going out of this country, or any instructions to that effect?—I do not recollect any specific instructions to have been given to me to that effect; but at the time I sent Restelli, I had not the least idea that he would be called upon again as a witness, or that he would be wanted as a witness, until, if this bill should have passed this House, it should have gone to the House of Commons.

Is it to be understood, that no such instructions were given by the government of this country to you?—To me personally, I do not recollect any specific instructions having been given upon this subject; but I certainly was present at the debate in this House, in which the noble earl at the head of the government had stated it to be the intention of the government to take every care they could, that the witnesses *should not* go away.

Knowing that, did you not consider it at least an act of disobedience to those instructions, allowing or recommending this person to be sent abroad as a courier?—I did not consider it an act of disobedience; I did not give it that consideration at all; I had a full expectation that the man would return; I never would have sent him if I had not had the fullest conviction on my own mind that the man would be here on or before the 3d of October.

Was there any intention, when he went with those letters, of his bringing back other witnesses to rebut those for the Queen?—None whatever.

Could not the families of the persons who are supposed to have been maltreated at Dover have applied at Milan to Colonel Brown for intelligence upon the subject of the witnesses?—They certainly could have applied to Colonel Brown for intelligence, and many of them did, as I understand, apply to Colonel Brown; he gave them the best assurances he could, but they were not satisfied with those assurances; the reports of maltreatment came from various quarters. I have received depositions of the relations of persons here, in which they depose to having heard of serious injuries received by their relations, and notwithstanding all the assurances which they received to the contrary from Colonel Brown, they were not satisfied with those assurances.

In the event of Restelli's wishing to withdraw himself from judgment, have you, or do you conceive you have any means of compelling him to appear?—Individually I can have no means of compelling him to appear; but I certainly conceive that, from the instructions which have been sent out, means will be taken with the government of the country in which he is, to compel him to appear, if he should be able to come, and should refuse to come.

Have any of the other witnesses been sent out of the country?—Not to my knowledge, one.

The witness was directed to withdraw.

Lord Erskine moved, that the question of the Earl of Carnarvon be put to the counsel for her Majesty.

The Lord-Chancellor hoped that the House would not so suddenly call upon him to give his opinion, whether a question so material were fit or unfit in its present shape to be put to counsel. It was this,—" whether the counsel for the Queen think it convenient to the case of her Majesty, that Restelli should be immediately called and examined?" His lordship doubted whether this question could be put, as at present worded; at all events, it seemed to him that, if put, it ought to be followed up by requiring the counsel for the Queen to state the grounds for their opinion. He therefore moved that the House should now adjourn.

Adjourned at a quarter before 5 o'clock.

ELEVENTH DAY.—October 14.

The Lord-Chancellor took his seat at 10 o'clock, and, after the usual forms had been gone through, business commenced.

The Earl of Carnarvon had, from the circumstances which occurred yesterday, submitted to their lordships a motion, which in consequence of what had fallen from the noble and learned lord on the woolsack, was suspended until to-day. No person entertained a higher respect for the opinion of the noble and learned lord than he did, and that opinion induced him now to beg permission of their lordships to withdraw the motion which he had made, with the view of submitting another, to which he apprehended there could be no objection. Before, however, this motion was put, he wished to ask a question of the noble earl opposite, with reference to the pledge he had given to the House on the subject of the witnesses. He begged to be informed whether, in consequence of that pledge, the noble earl had given instructions that the witnesses examined in the proceedings against the Queen should not be allowed to leave the country.

The Earl of Liverpool said that he had not given instructions to any particular individual. In reply to a word or two across the table from the Earl of Carnarvon, the noble lord intimated that he conceived it to be understood by the law officers of the Crown that the witnesses were not to leave the country.

The Earl of Carnarvon then asked whether the same thing was understood at the Foreign-office.

The Earl of Liverpool had not the least difficulty in giving their lordships an explanation respecting what had occurred at the Foreign-office. The fact was, that the person who had been yesterday examined at the bar had applied at the Foreign-office for a passport for Restelli, and it was granted in the usual manner, because it was considered that the application was made with the concurrence of the law officers of the Crown.

The Earl of Carnarvon said, that for the purpose of ascertaining by direct evidence how the case stood with respect to the departure of any of the witnesses, he should beg leave to call for Mr. Planta, of the Foreign-office, to answer such questions as may be put to him by their lordships' bar.

The Lord-Chancellor then put the question, "that Mr. Planta be called in."

It was agreed to, and Mr. Planta was sent for.

The Earl of Carnarvon then moved, "that Mr. Powell be called in."

This motion was also agreed to, and counsel were accordingly called in.

John Allan Powell, Esq. was then called in, and further examined by the Lords.

The Earl of Carnarvon.—You have stated, that Restelli was sent to Milan on Thursday or Friday after the adjournment of the House, that was on the 14th or 15th of September?—On the 14th or 15th of September. I left town early on the morning of the 15th, the Friday I believe, but I am not certain that Restelli went the preceding evening but I did not see him go.

Do you know whether Restelli was directed to take dispatches on his way to Sir Charles Stuart at Paris?—I do not.

When you sent Restelli abroad, in how many days did you calculate that he would probably arrive at Milan?—I calculated that he might arrive at Milan in seven or eight days.

What time was it understood that Restelli was to remain at Milan?—I sent some papers by Restelli to be further legalized, which had been sent over, as I conceived, not sufficiently so: those papers, I thought might have been made use of upon the opening of this business again; consequently Restelli was to have returned previous to the 3d of October, to have brought back those papers.

Was Restelli instructed by you to go any where except to Milan?—No where except to Milan; he was to go direct there.

Do you know that at or near the same time any persons who had been sent over here, in order to give testimony in this cause, were sent back to Milan?—I know that, previous to that time, a person who had been sent over here had been sent back, not any person who had been examined.

Was only one person sent back?—I recollect only one person.

Was that person one who had landed at Dover at the same time with Restelli?—He was not.

Previous to Restelli's being sent abroad you have said that one person was sent back to Milan, was any other person, similarly circumstanced, sent back, or allowed to go back, to any other part of Italy?—Not to my knowledge.

Subsequently to the return of that one person, had no other persons who had come here for the purpose of giving testimony, and had not been examined, been sent back, or been permitted to go back to Italy?—Not to my knowledge.

Are you to be understood that, previous to Restelli's going to Italy, no person who had come here for the purpose of giving evidence or deposition had been sent back, or permitted to return to Italy, except the person you have already mentioned?—Am I to speak from any own personal knowledge?

(The witness was directed to speak from his own knowledge).——To my own personal knowledge there has not been.

To the best of your knowledge and belief?

The witness was directed to withdraw.

The Earl of Lauderdale considered this examination irregular. He could not conceive the object of making inquiries respecting persons who had come from Italy, but had not been examined. He also protested against

an examination of the agent of a party in a cause. He did not think their lordships could, consistently with the principles of law, call an agent before them, and examine him as to every step which he took in his client's cause.

The Earl of Liverpool, without entering into the consideration of the question immediately before the House, had no hesitation in saying that he was fully of opinion that any persons who had been brought here as witnesses, and who had not been examined, might be sent back. Indeed it was his wish that they should be all sent back: and were he asked his belief, he would say, that several who had not been examined had returned.

Earl Grey said his noble friend on the cross-bench (Lord Lauderdale) seemed totally to misapprehend the object of the examination. What was the situation in which the House was placed? It was proved that an agent in support of the bill had, contrary to his general instructions, and, as he (Lord Grey) thought, contrary to his duty, sent away one of the witnesses who had been examined at the bar. That agent had admitted his having done so, and, in justification, said that he had so sent him for the purpose of giving assurance to the families of the persons who were in this country to give evidence in support of the bill, who had been, it was stated, very much alarmed by what had happened at Dover. Now what was the object of the examination of his noble friend (Lord Carnarvon)? To ascertain whether there was any validity in this excuse, set up for a step which was universally condemned, except, perhaps, by his noble friend on the cross-bench, but which he too would condemn if it proved to be unnecessary. In his questions relative to this measure, so generally reprehended by their lordships, his noble friend had asked whether certain persons, who had not been examined as witnesses, had not been sent back to Italy, who might have answered the purpose for which Restelli was said to have been sent. It was, doubtless, competent to their lordships to enter on such an inquiry, and without violating any important secrets, which an agent is bound not to disclose with respect to the affairs of his clients. An answer to the question which had been put by his noble friend was indispensable, in order to ascertain the validity of the excuse, if their lordships meant to inquire into this most reprehensible transaction, a transaction

the impropriety of which his noble friend on the cross-bench did not deny.

The Earl of Lauderdale said he had expressed his abhorrence of the proceeding; but the question was most objectionable in the manner in which it was put. It might be asked whether any person who was present at Dover when the witnesses were ill used, and who was also an Italian, had been sent to Italy besides Restelli. If he knew any thing of the law, one of the principles held most sacred was this—that an agent ought not to be required to disclose the confidential secrets of his client. To the question as he had defined it, he should have no objection.

The Lord-Chancellor thought it his duty to state, with respect to the matters now before their lordships, that they could not be too cautious in putting questions to an agent, as, if this were permitted on one side, justice required that the same license should be granted to the other side. The principle, as the noble earl had stated, was this—that an agent should not be called upon to disclose the affairs of his client. The noble earl ought to put the question thus:—"Have you or not sent any other person abroad equally qualified to do that for which Restelli has been sent abroad?" By putting the question thus they might ascertain all that had been done, without inquiring into matters that ought to be concealed.

The Earl of Rosslyn observed, that if the question was put in this shape, the witness might answer "No." But in that answer they would have only the opinion of witness as to the comparative qualifications of Restelli, and not the fact which they wanted—namely, whether at that period any unexamined witness had been sent back? Here their lordships had the admission that an agent of the bill had tampered. That agent having assigned reasons in justification of his conduct, their lordships were bound to inquire and decide whether those reasons were valid and justifiable—whether they were real or pretended. With that view he conceived their lordships had a right to press the questions of his noble friend.

The Lord-Chancellor said there might be many cases, in which, from the sacredness of the principle now contended for, difficulties might arise; but if facts could not be obtained without doing that which the law of *England* would not authorize, the evil must be submitted

to. Such questions must not be put in any particular case, on account of the evil consequences to which such a departure from the established practice must lead.

Lord Holland observed, that their lordships had taken upon themselves the commencement and the direction of this proceeding, and the House being, therefore, both principal and prosecutor, he put it to the noble and learned lord on the woolsack whether they might not examine their own agent?

The Lord-Chancellor.—To that question he must beg leave to say, that, whatever its popular effect might be, he would not give it an answer, for it was a question which ought not to be put.

The Earl of Darnley understood that a vast number of witnesses had been brought to this country who had not been examined at their lordships' bar. For obvious reasons, it might not have been improper to send back this superfluous testimony. Such being the case, he was surprised that some of these unexamined witnesses had not been conveyed to Italy, where they could have answered every purpose that was to be answered by sending Restelli. It was said that an account of the expense was unnecessary when he had called for it.

(Here there was a laugh, and a call of "order," on the opposite side of the House, in which Lord Redesdale joined.)

The Earl of Darnley said, that if, in the discharge of his duty he had said any thing ridiculous, he might be called to order; but he hoped he might not be interrupted by the coarse mirth of the noble lord.

Lord Redesdale did not think the remark called for by any thing in his conduct, but appealed to the House whether he had not yesterday been subject to the coarse mirth of every body on that side of the House?

The Earl of Darnley was willing to admit that, on the principle of retaliation, the noble and learned lord might be justified. To return to the point on which he had been interrupted, he had moved for accounts of the expenses incurred in these proceedings a fortnight ago; but though it had not been thought proper to grant them at that time, he was of opinion that they ought to have been produced.

A Peer under the gallery objected to the introduction of a subject foreign to the question before the House.

The Earl of Liverpool said he had ordered the account

to be made out a fortnight ago; but whatever weight that part of the business might have on a future occasion, it was immaterial to the present question. What had been said with respect to the witnesses seemed to require some explanation from him. It was perfectly true that more witnesses had been brought to this country than had been examined at their lordships' bar, and it was true that he had said he was of opinion that those persons who had not been examined might be sent away, but that those who had given their testimony ought not to be suffered to depart. It was true that he had expressed such an opinion; but when he said it appeared to him that those who had not been examined might be sent away, this opinion was delivered subject to that of the law-officers of the Crown, who best knew what their case required, and who might have important reasons for not allowing those to go away whom he had felt disposed to send back. They might know that this would be improper; and that which he had stated was certainly subject to the decision which might be come to by the professional advisers of the Crown.

The Marquis of Lansdowne said, that it was matter of notoriety that there was a multitude of persons within the precincts of Cotton-garden who had not been examined. There could, therefore, be no objection to questioning the witness at the bar in the way which had been proposed. It could not affect the interests of an unknown client improperly, to put a question of an agent conducting a prosecution by order of the House. It was not proposed to ask what had been done with this or that witness, or what this or that witness had been brought over to prove, but whether witnesses had not been sent away who could have done that which it had been assumed could only be done by Restelli. The answer to this would only put the House technically in possession of that which was well known to the public already—namely, that witnesses had been sent away unexamined.

The Earl of Carnarvon said, if disposed to make a complaint respecting the sending home witnesses, it would be that all who had not been examined were not sent back. He could not but feel surprised, considering the very extraordinary step that had been taken, in contradiction not only to the pledge of the noble lord opposite, but to the express order of the House, that the wit-

nesses who had been examined should be detained. It was strange that it should be thought that Restelli alone could convey that information to the friends of the witnesses in Cotton-garden which it had been judged expedient to send; that he also could execute this task in the few hours he was to reside in Milan. But how would the case stand, if he showed, not that one, but that fifty or sixty witnesses, could have been sent back? These persons could not only have conveyed letters or information to the relations of the witnesses in Italy, but their own personal appearance (probably well clothed and fed) would have proved that there was not that danger in coming to England to further the ends of justice which had been apprehended. It was now said that they must not examine an agent with a view of diving into the secrets of his principal. This was not contended for; but the question on which they wanted information was in point of fact this—whether some of the persons who had not been brought forward ought not to have been sent back, rather than Restelli, who had been examined? Was this to seek for the disclosure of secrets? He supposed every one of them must have obtained passports from the Foreign-office. What possible objection could there be to putting the question which had been asked?

Lord Auckland knew that in usual cases the agent should be cautious of divulging the secrets of his client; but there were some civil cases in which a latitude was allowed, and he believed in criminal cases this latitude was still greater. He was of opinion that in the present case the question ought to be allowed to be put. Mr. Powell, if it should be necessary, might appeal to the House whether he ought to answer any particular questions.

The Lord-Chancellor remarked, the privilege which had been mentioned was not to be regarded as the privilege of the agent, but as the privilege of the principal.

Lord Ellenborough acknowledged the correctness of the general principles laid down by the noble lord who opened the discussion, but he could not allow their application in the present case. The principal here, being the state, was not to be protected; and their lordships, he conceived, forming a part of the state, had a right, as a noble lord (Holland) had stated, to examine a person *who might be considered*, in some sense, their own agent.

The witness was again called in, and the question was proposed by the *Earl of Carnarvon.*

I have heard that two others have gone.

At the time you resolved to send Restelli to Milan had you inquired whether it was probable that any witnesses would be soon permitted to depart?—I had made no inquiry on the subject.

You stated that you had received letters stating that Restelli was ill, from whom did you receive those letters?—From Col. Brown.

Have you got those letters?—I have not them about me.

Have you had any communication from Restelli himself since he left England?—None, nor made any to him.

The Marquis of Lansdowne.—Did you instruct Restelli to go to any other place or places than Milan?—I have already answered that I did not.

The Earl of Morley.—Is the House to collect from your evidence of yesterday, that you applied yourself to the Foreign-office for a passport for Restelli?—I mentioned at the Foreign-office that Restelli was to go as a courier.

Antecedently to your application were you acquainted with the person of Lord Clanwilliam and Mr. Planta?—I was.

The Earl of Darnley.—Do you consider that, as agent for this inquiry, the witnesses are all under your direction and control?—Certainly not under my direction and control.

Did you make the application to Restelli to go as courier, or Restelli to you?—I; not Restelli to me.

Solely for the express purpose of quieting the minds of those witnesses in Cotton-garden?—Of quieting the minds of the families and relatives of the witnesses in Cotton-garden.

Solely for that purpose?—Solely for that purpose, and of taking back those papers; I sent the papers with him as a courier.

Lord Erskine.—If your sole object in sending Restelli was to quiet the apprehension of the families of persons whom they might be anxious for, how came you to send by him the papers to legalize at Milan the legalizing of which might create some delay, if he was to bring them back?—I did not send the papers that he might legalize them; I sent papers by him to Milan to be legalized, that further proof might be had of them; and I expected that those papers would be legalized in sufficient time for Restelli to bring them back here on or before the 3d of October.

Did you intend that the papers should not be left by him to be legalized in his absence, but that he was to wait to bring them back?—I had no expectation of that sort; it would be left to the discretion of Colonel Brown to send those papers back by Restelli or not.

The Marquis of Lansdowne.—State what families of witnesses now in Cotton-garden you know to be resident at Milan?—To be resident at Milan and the neighbourhood.

At Milan?—Rancatti, I think, and the Majochi's, in the neighbourhood of Milan; I cannot carry in my mind the names of those witnesses; if I could see those names, probably I might be able to point out some others; it was intended not only to the families at Milan, but in the neighbourhood of Milan also.

Did you give any instruction to Restelli to quit Milan, and go into the parts of the neighbourhood or country adjacent to Milan, where these families resided, for the purpose of conveying those assurances?

—I do not remember that I gave any precise instructions upon that subject, but he was to take letters, and did take letters from the witnesses in Cotton-garden to their families.

Then it was by means of those letters so conveyed from Cotton-garden by Restelli that you expected that the families you allude to would derive that assurance?—By means of those letters and Restelli's personal appearance at Milan, and probably the neighbourhood, that he would be sent from Milan to places in the neighbourhood.

Had you reason to expect that Restelli, without any instructions from you, would go into the various countries adjacent to Milan, in which those families resided, for the purpose of conveying assurance to them by his personal appearance?—I recollect having stated to Restelli that he should take letters to the families of the different persons who were there, and that he should assure them of their being safe, and I concluded that Colonel Brown would send him to those different persons to give that assurance.

Would it have been possible for Restelli to convey that assurance by carrying letters to those families in the different places where they resided, and by his personal appearance before them, without incurring a greater delay than that which you stated would belong to his mission?—As I have already said, Restelli left this country, I believe, either on the evening of the 14th or the morning of the 15th, I do not know which, not having seen him go; couriers have gone to Milan in six days and six nights; supposing him to have taken seven, it would have brought it to the 21st or 22d, leaving eleven days before the 3d of October: the distance he had to go into the country would have been either to Monza, which is about ten miles, where one of the families lived, and Como, which is about five and twenty.

Lord Auckland.—Can you state whether the friends of a witness named Signor Cuchi were in a state of anxiety?—I know nothing of that; I have no reason to believe one way or the other.

Do you know whether any letter was sent to Trieste?—By Restelli; I do not know what letters he took.

Can you state what number of letters were sent by him?—I do not know.

Lord Ellenborough.—Did you send any letter to Colonel Brown, by Restelli, on the subject of Restelli's mission?—I did.

Have you a copy of that letter?—I have.

Can you produce it?—I have it not here.

Can you produce it?—I can produce it; it contains a great deal of matter relative to other subjects; whether in my situation I ought to produce it or not, I must leave to the House, whether confidential communications ought to be produced.

Can you produce that part of the letter which refers to the causes of Restelli's being sent?—It is altogether a confidential communication, which in my situation I must defer, and submit to the House whether I ought to produce or not.

The witness was directed to withdraw.

The Earl of Darlington observed, that the witness had not been called either by the prosecution or the defence, but by the order of the House. Now, whether he had been ordered to attend by their lordships as judges or as jurymen, or as the House of Lords, he thought that, if *he was brought to* their bar, permission should be given

to counsel on both sides to put what questions they pleased to him upon this subject.

Earl Grey said, that the present question was one respecting an obstruction of justice which appeared to have taken place; and the person who had sent the witness out of the way having been called to the bar to give an account of the transaction, he thought it right that the counsel on both sides should be at liberty to suggest any questions that they thought important to the interests of their clients.

The Lord-Chancellor apprehended, that in the courts below, counsel would have a right to state questions as to having this obstruction of justice explained. But here, whether counsel called for evidence to explain it or not, their lordships might call, and had called, for such evidence. If the counsel suggested any questions, he apprehended the House might put them if it thought proper. He did not rise to oppose what had been proposed by the noble lord, but to state that they were now going a length which the lower courts would not go without thereby incurring the danger of doing injustice. If counsel called a witness to the bar at any stage of a proceeding, it was the duty of the court to give him credit for thinking it was for the interest of his client that he had acted as he was acting; and it was material to reflect on the extraordinary danger of putting a question to counsel as to questions which he thought important. In many cases, if counsel were called on for a reason, it would be necessary for them to call on the court to look back, in order to see the bearing of evidence about to be produced; and therefore he thought the safe course was, not to ask counsel any questions on that subject.

Lord Auckland asked whether, in the case of an attorney violating or obstructing justice, it would not be competent to compel that person to produce the document connected with his misconduct?

The witness having been recalled was further examined by *Earl Grey*.

You are understood to state, you are in possession of a letter from Colonel Brown, giving an account of Restelli's illness?—I am.

Can you produce, if not the whole, that part of the letter which contains that communication?—I consider all the communications made to me by Colonel Brown in this business as made to me confidentially, and as considering me one of the agents on this bill.

You therefore object?—I therefore object to the production of any correspondence to Colonel Brown, or from him.

Or any part of that correspondence?—If I object to the whole, I object to every part.

You also object to the production of the whole or any part of your letter to Colonel Brown on the subject of Restelli's mission?—I object, in the character in which I stand, to the production of any correspondence either to or from Colonel Brown.

You were understood to say, that you gave positive injunctions to Restelli to return before the third of October?—If I recollect right, I stated to Restelli that he was to be back on or before the third of October, or as soon as he possibly could.

Did you state to him the reason for the necessity of his speedy return?—I do not recollect that I stated any reason for his speedy return.

You were understood to state yesterday, you did not expect that Restelli would be wanted before this business was proceeded on in the House of Commons?—I did not expect he would be wanted as a witness until this proceeding would go on in the House of Commons.

On what account then did you give him so positive an injunction to be back by the third of October, or as soon as he possibly could?—Because I expected him to return with the papers which I had sent, and which I conceived I might want to use upon the re-commencement of the proceedings on the third of October.

It was for that purpose, and not for the purpose of his being called in case of necessity, in consequence of any examinations that might arise in this House?—The necessity of his being called as a witness in the proceedings in this House did not suggest itself to me; the counsel against the bill having stated, that they had no further questions to put to any of the witnesses in support of the bill, his being called upon by them as a witness in the course of their defence did not suggest itself to me.

You were aware, however, of the opinion of this House, that it was necessary all the witnesses who have been examined here should be kept in a state to be produced, if necessary, in the course of the proceedings?—That it had been so decided by the House?

That the House had expressed its opinion, and given its orders?—I do not recollect that.

Were you not aware that this House had expressly stated its opinion, that every witness examined in this cause should be kept in a state to be re-produced, if necessary, in the progress of this inquiry?—I certainly understood that, during the inquiry in support of the bill, during the giving the evidence in support of the bill, the House would require it.

You were understood yesterday to state, that you had been present when the first lord of the Treasury stated to the House an assurance that every witness, so far as it was possible for him to command it, should be forthcoming to answer any questions that it might be necessary to put to him in the further progress of this inquiry?—Certainly.

Then were you not aware of the necessity of Restelli, as well as the other witnesses, being kept here for that purpose?—I can only say, that it did not suggest itself to me at the time of Restelli's going; if it had in any manner suggested itself to my mind, I should not have thought of sending him.

If any witnesses had been sent back previously, or at the time of Restelli's going, *might not* they have effected all the purposes of re-

suring the families of those who remained here of their personal safety? —I considered Restelli the best person to send back for that purpose, because he had accompanied those witnesses who had been maltreated; I believed him to be well acquainted with the families, and consequently that he was the best person to go back for that purpose.

You meant then, that he should have a personal communication with the families of those witnesses?—As far as was in his power, that was my intention.

You considered him as the best agent to have communication with the families of those persons?—I thought him the best person to have communication with the families of those persons for that purpose.

The reason then of your sending Restelli back was, that he might have such communication with the families of those persons?—The reason of my sending Restelli back was, that he might take letters from the individuals here to their friends and families, and that he might personally communicate the situation in which those persons were here.

State from your knowledge, as an agent in this cause, of the witnesses who have been examined here, whether any one of their families is resident in Milan?—Never having seen their families, or been in communication with their families, I cannot state from my own personal knowledge, any thing about it.

Those witnesses have all been examined here as to the places of their residence?—I do not recollect the places of residence they have stated.

Do not you know that all, except Majochi, have stated that their residence was at other places, and not at Milan?—I do not know, because I do not know where they have stated their residences to be.

You meant that Restelli should have communication with their families?—I meant that Restelli should have communication with all the families, as far as he could, in Milan and the immediate neighbourhood.

You have stated, that if a courier goes day and night, and uses all possible expedition, he may go from hence to Milan in seven days, and return in as many?—Six days and nights; I have heard of couriers going in even less time than that, in five days and six nights.

You seem to allow, upon the average, seven days as a quick expedition?—Not an extraordinary expedition; I take it that a courier, using no extraordinary diligence, perhaps I may say ordinary diligence, would get to Milan in six days and nights.

Do you think a courier, using his utmost diligence, could go from hence to Milan and return, without any delay there whatever, in less than fourteen days?—I do think so; I think he might.

Did you expect that Restelli could have performed the journey in less time than that, there and back?—I can scarcely say what my expectation was; I generally calculate a courier's going in six days and nights; I know it has been repeatedly done.

Supposing this man had travelled twelve days and twelve nights without intermission, that was the least time in which it was possible for him to go and return from Milan?—I do not say the least time, but that is the time he would probably have taken, if not a day or two more; he might have taken a day or two more.

Then state what time there was left, considering the time occupied in going and coming, for him to execute this commission of personal communication with the families of the witnesses, so as to make it

possible for him to have been here again on the 3d of October?—Supposing him to have left London on the evening of the 14th he would have arrived at Milan on the 20th; I believe he went on the evening of the 14th, allowing six days for his return, whenever that might be, that would be the 26th, he would then have seven days.

Did Colonel Brown state in his letter to you the date of his arrival at Milan?—I do not recollect that he did.

On referring to your letters, if you find the date stated, should you have any objection to communicate it to the House?—I can have no objection to communicating that, except that I object to communicating any thing.

You object to communicating the mere fact of a date?—The mere fact of a date I could have no objection to communicating, except as forming a part of the confidential communication that has taken place between Colonel Brown and myself. I consider that I ought in my character to object,—it is not that I should have any personal objection, but I consider it my duty to object to making any communication of correspondence of that nature.

Lord Kenyon.—Have any of the persons whom you have stated to have been ill used at Dover, returned to Italy?—None to my knowledge, except Restelli himself, who was ill used.

Was there not a woman among those persons?—I understand there was; I understand one man has never recovered the effect of it, he has been deaf ever since.

Is that woman still in England?—She is.

Did Restelli bring more than one set of witnesses to this country?—I do not recollect, I have no knowledge of it.

What were the names of those witnesses whom Restelli brought?—Does the question refer to the witnesses whom he brought to Dover?

Any witnesses he brought to this country?—I cannot recollect all the names, I can recollect some he brought over to Dover, as I understood; I did not see them.

On inquiry, can you ascertain the names of those witnesses whom Restelli brought?—I could on inquiry ascertain the names.

Can you state what was the greatest distance of the residence of any witness from Milan, whom Restelli brought to this country?—I cannot; I do not remember the names of all, therefore I cannot state.

Do you conceive Restelli could communicate with the families of all the witnesses he brought here, by going to Milan?—That he could conveniently communicate with them all, certainly.

Do you know the names of the two persons, whom you state to have been sent back to Italy?—I stated one person to have been sent back to Italy.

Do you know his name?—I do.

Can you state it?—Aquabuona.

Lord King.—Did not you know, that you had lost all control over Restelli the moment he quitted England; and might not any other courier, not placed under such circumstances, have conveyed the intelligence to the families of the witnesses?—Personally I lost all control over him, but I do not know that I ever had any control over him; I have already stated, that I did not think any other person could so well have communicated that information.

The witness was directed to withdraw.

The Earl of Liverpool only wished to state, that whatever legal difficulties the witness might feel himself

under, upon professional grounds, with respect to the production of the letters in question, they would not influence him to raise any objection to their being brought forward, if it was the pleasure of the House. It might still be a question with their lordships how far any thing of confidential communication contained in those letters was proper to be made known.

The Earl of Lauderdale wished to understand what was the precise object intended by such a course. In point of fact, it was one more fatal to judicial proceeding, and to the propriety of all judicial proceeding, than any he had ever heard of. In this case, the witnesses, for instance, had deposed on oath what were their several residences. Their lordships had since, upon a point arising out of the case certainly, but not upon the case itself, examined, also, one of the agents for the prosecution, touching the same matter, the residence of witnesses. Now if that individual had contradicted his own witnesses, he (Lord Lauderdale) desired to know in what situation their lordships would find themselves, after such confidential agent should have perjured himself? He only mentioned the supposition, in order to found his objection to the course pursued.

The witness was again called in.

Earl Darnley.—You have stated, that you consider that the witnesses for the prosecution are not under your direction and control; do you know under whose direction and control they are?—I can scarcely state under whose, I consider them under the control and direction of the government generally, and the agents of the government.

Who is the person immediately authorized by government to see after those witnesses, and to direct and control those witnesses; do you know of your own knowledge?—There are several persons who reside in the place with them, under whose immediate direction, whether control I cannot say, but under whose direction and care they are.

In point of fact, are persons admitted to see the witnesses, or refused admission, by your order?—I have given directions, that persons should be admitted to see the witnesses, and certainly I have given directions, that strangers should be excluded; not that a constant, direct, and free communication should be had to the witnesses by every body who wished to go there, because I thought it inconsistent with their safety.

Earl of Derby.—You are understood to state, that you did not consider Restelli to be under your direction or control, under what authority did you take upon yourself to send Restelli from this country?—As a person assisting, an agent, perhaps, I may call myself; a person assisting in support of this bill; I conceived that I had a right to send Restelli, that I had that sort of implied authority.

Did you send Restelli out of this country of your own mere motion, without any communication with any other agent in the cause?—I do not recollect whether I made any communication to any other agent in the cause; I know I spoke of it generally; I made no secret of sending Restelli.

You were not asked whether you made any secret of it, but whether prior to sending this gentleman out of the country, you gave directions solely from your own head, that he should so go?—I do not remember any communication to any other person; it is possible I might have made it.

You took it solely upon yourself to send this person, whom you did not consider under your control, out of the country upon this occasion?—I took upon myself to send this person as a courier upon that occasion.

Lord Kenyon rose to submit a motion, that the names of all the witnesses whom Restelli brought over be laid before the House by the witness. If any noble lord objected to this return, he should, undoubtedly, feel it his duty to divide the House upon it. He then asked,

Can you state the names of those witnesses whom Restelli brought over to this country?—I did not see the witnesses brought over by Restelli, I can merely state it from hearsay, therefore I have no personal knowlege as to who they were.

Lord Kenyon desired the following extract to be read from the former evidence of the witness:—

"Did Restelli bring more than one set of witnesses to this country?—I do not recollect; I have no knowledge of it.

"What were the names of those witnesses whom Restelli brought?—Does the question refer to the witnesses he brought to Dover?

"Any witnesses whom he brought to this country?—I cannot recollect all the names; I can recollect some whom he brought over to Dover, as I understood, I did not see them.

"On inquiry, can you ascertain the names of those witnesses whom Restelli brought?—I could on inquiry ascertain the names."

Lord Kenyon moved that the witness give in a list of those names.

The Earl of Winchelsea.—Did you consider yourself as having any authority over Restelli to order him to go out of the country?—If the man had refused to go out of the country, I certainly had no authority to order him; I even considered him at liberty to go if he pleased, and that I could not have stopped him; I conceived that he was under no legal restraint.

The Lord-Chancellor asked the counsel whether they had any questions to submit.

Mr. Brougham.—My lords, I wish to ask the witness one question:

Who is your client or employer in this case?

(Cries of Order, order.) The witness was directed to withdraw.

Mr. Brougham.—I am sure your lordships will allow me to proceed, when I say that I wish to explain my

ct in making the inquiry. This question is put for
urposes but the purposes of justice, and in order to
ble us the more effectually to perform our duty to the
.strious party for whom we appear. My lords, I sub-
.t that it is most important to us that we should be en-
bled to put this question to this witness, as the first one
ho has yet been called, in the course of these proceed-
ngs, that can give us the required information. Is it of
no consequence to us (contending from day to day, as
we have been, and engaged, as we at this moment are,
without any specific party on the other side), in order
that we may be able to fix that opposite party with his
agent; is it of no consequence, I say, to ask the witness
this question, so that we may procure that important evi-
dence, which is not evidence unless it comes from the
opposite party through his agent? My lords, if I knew
who the party is against whom I appeared, *non constat*
that I may not bring forwards a mass of evidence fur-
nished by himself—namely, speeches, declarations, and
acts of that opposite party. Again, my lords, whatever
be the name of this unknown—this interesting unknown
—your lordships see that, not knowing at present who
this undiscovered being is—not knowing whether he have
in truth "a local habitation and a name"—not know-
ing whether this shadow may not vanish into airy
nothing, after he has eluded all sensible perception—I
cannot fix him with any character. If I am told who he
is, I may then be able to trace his lineaments, and at
length to bring out the mighty secret who and what he is
from his own mouth—if he have one. I know, my
lords, that the rule of law is close on the subject of the
professional confidence of agents: I do not deny it.
But here there is no party. Prove to me who the party
is, and I will not disturb the professional confidence of
his agent. And who is the party? I know nothing
about this shrouded, this mysterious being—this retiring
phantom—this uncertain shape—

"If shape it might be call'd, that shape had none,
"Distinguishable in member, joint, or limb—
"Or substance might be call'd—
And such, your lordships will admit,
"——— That shadow seem'd,
"For each seem'd either.———
"——— What seem'd his head,
"The likeness of a KINGLY CROWN had on."

under this shape, this "airy nothing"—and I know

whether it be one, or either, or neither, or both I am to face the adverse party; I am to be met at every turn, and in every part of the proceeding, by not being able to put a single question to this visionary personage. I am to pursue this shape—

The Lord-Chancellor said, that the question could not be put to a witness called to account for his having permitted a person examined as a witness to leave this country; but if he wished to propose such a question, he must for that purpose call him as his own witness.

Mr. Brougham.—How many witnesses, previous to the 14th of September, were here on the part of the bill from Italy?

The witness was directed to withdraw, and the *Lord-Chancellor* objected to this question also, and said the counsel could not put that question; but might ask how many had left this country.

The witness was again called in.

Mr. Brougham.—How many witnesses who had ever come over in any way to this country, in support of the bill, to the best of your knowledge and belief, had left the country before the 14th of September?

The Earl of Lauderdale objected to the question.

The Earl of Carnarvon supported it: the object might be to ascertain what witnesses who had seen the treatment of some of the others, at Dover, had returned.

After some explanation between the *Earls of Lauderdale* and *Carnarvon*,

Mr. Brougham put this question to the witness:—Previous to Restelli's being sent back to Italy, how many of the witnesses had, to the best of your knowledge and belief, returned to the North of Italy after having been here?—I do not know of any; to the best of my knowledge and belief, none.

Will you undertake to swear, that at the time that Restelli was sent back, you did not know and believe that any persons who had been in this country as witnesses, had returned to the North of Italy?—To the best of my knowledge and belief, none.

The question relates to witnesses who have been here and have never been examined at all; will you undertake to swear that none of those witnesses who had not been examined, had gone back at that time to the North of Italy?—None; I have no recollection whatever of any. I know of one person who was sent over here as a witness having been sent back to the South of Italy; I know of no person who had been sent over here; I have no recollection of any person who had been sent over here; I have no belief of any person who had been sent over here having returned to the North of Italy; if there be any names, and you will state them, it may bring it to my recollection. There were so many persons that I cannot possibly take upon himself to recollect every name of every individual who has come over here; some have come over that I have never seen.

Will you take upon yourself to swear that, at the time Restelli was sent *back, no other* person employed as a courier under the Milan

commission had ever gone from this country to the North of Italy after the Dover riot; Krouse, any other person employed as a courier under the Milan commission?—After the Dover riot, certainly not, under the Milan commission; I consider the Milan commission to have ceased its functions upon the return of Mr. Cooke and myself from Italy, early in the month of June 1819; having left Milan myself in the month of May, for the last time, but having ceased to act in the month of March 1819. I do not consider myself as having acted under that Milan commission in this country.

The question relates to any persons employed as a courier in relation to this bill, and to the persons to be examined in support of this bill? —Certainly couriers have been sent from this country since the Dover riot.

Will you give the names of some of those persons who have so gone backwards and forwards since the Dover riot?—Does the question mean down to the present time?

Down to Restelli's departure?—I know as a courier, Krouse.

Had not Krouse brought over some of the witnesses from the North of Italy?—Yes.

Has any other person gone backwards and forwards, since the Dover riots, as a courier to the North of Italy?—Other persons have gone as couriers to the North of Italy.

Who?—I do not know; Krouse is the courier I know.

Did you know of Krouse having so returned to Italy after the Dover riot, at the time you sent off Restelli?—I did.

Did you also know of those other persons having gone as couriers at the same time?—I did.

Did you send any other courier, besides Restelli, to give information and comfort to the families of the other sets of witnesses besides those whom Restelli had brought over?—Letters were taken from all the witnesses and sent to Colonel Brown by those different couriers, by other couriers besides Restelli.

Were any of those couriers, besides Restelli, directed to go round to the families of the witnesses, and to give them better evidence than their handwriting of their friends being still alive in this country? —When Krouse was sent to Milan, with letters from the witnesses here, I considered that Colonel Brown would make use of Krouse in giving any information of that nature.

Did you give any instructions to Krouse, similar to those you gave to Restelli, to go about to the families when he took the letters?—I do not recollect any instructions, any particular instructions to Krouse.

Did you give instructions to any of the other couriers to the same purport with those you gave to Restelli?—I sent my letters to the other couriers; I had not personal knowledge of those couriers; I sent my letters to the Foreign-office to be forwarded; but I beg to state, I received information from Milan that the families of persons there were not satisfied with the assurances given by Colonel Brown, and further, that reports were circulated that the letters which were sent by individual witnesses from this country had been forced from them, and that they had been obliged to write them in that way, stating their safety.

Name any persons who gave you that information?—I received information to that effect from Colonel Brown.

Will you mention the names of any families who were so uneasy?—*Colonel* Brown's information was general; but I can name an indivi-

dual to whom a representation had been made, after such letters had been sent, that her husband had received great personal injury, the wife of Rancatti, who had been sent for express by a person in Milan, to be informed of that, as I understood.

Did Colonel Brown suggest at the same time the propriety of sending Restelli for the purpose?

The Solicitor-General submitted that his learned friend had no pretension to examine the witness as to the contents of a letter written to him by Colonel Brown.

The Lord-Chancellor.—It has been repeatedly suggested, in the course of this proceeding, that the party examining should be informed whether such communications are written and confidential ones. If so, no person has a right to ask such a question as that now propounded.

The witness.—I may be allowed to state, that all the communications I have made, have been in writing.

The Lord-Chancellor.—Then that writing cannot stand part of the evidence, unless the counsel choose to call the witness as a witness on his side.

Mr. Brougham.—Your lordship will observe that this question arose out of a statement given by the witness himself, in order to explain his own evidence.

The Lord-Chancellor.—It is quite clear that you cannot ask him.

Mr. Brougham.—Will the House allow me, then, to ask the witness another question?

The Lord-Chancellor.—In point of form the question ought to be put, my lords, through me. I have not interfered before, because it appeared to me that counsel on either side were interested to make out or to destroy the necessity of the examination of Restelli. But I must object to the whole course of the present examination. Further than that necessity of examination, or otherwise, they cannot go. If you cannot make it out by parole evidence, but only by the contents of a confidential communication, you cannot make it out at all.

Mr. Brougham.—Did you not know that Restelli never knew one of those witnesses whom he brought over, nor their families, and never had in his life seen one of them before the journey?—How can I know that?

Do you not know that Restelli has sworn it in this place?—Whatever Restelli has sworn appears upon the minutes.

Had you read those minutes before the 14th of September, you being agent for the bill?—I did read the evidence; I do not recollect to have read Restelli's evidence; I have heard it.

Did you not hear Restelli swear that he never had seen one of the *eleven witnesses he brought* over before he came the journey with

them, consequently could not know them or their families?—At page 413, *(Ch. p.* 441.) he says, in his evidence, "Some I know, some I do not know; those I know, I know because we came together, but I had never seen them before."—I cannot take upon myself, now, to say what I heard Restelli swear.

Then have you not sworn that your reason for sending Restelli, in preference to any body else, was because of his knowing the families of those witnesses?

The Attorney-General objected to this question, and complained that Mr. Brougham had read a part only of Restelli's evidence.

Upon the *Lord-Chancellor's* suggestion the following extract was read from page 413 of the printed minutes *(Ch. p.* 441.)

"Who are the persons with whom you came?—Some I know some I do not know; those I know, I know because we came together, but I had never seen them before.

"Who are they?—They are various; I knew them by sight before, but I had no intimacy with them.

"State their names?—Of some I can say, the others I do not know.

"State the names of those you do know?—Carlo Rancatti, Geralimo Mejani, Paolo Oggioni, Philip Riganti, Henrico Bai, Finette, the wife of Majochi; perhaps there may be some more, but at present I do not remember them."

Mr. Brougham observed, that the matter was just where it stood when the Attorney-General interrupted him. Restelli, as he (Mr. Brougham) had said, knew them by name only.

The Lord-Chancellor.—We don't want any observations: let counsel proceed.

Did you not hear the whole of that evidence given by Restelli before you sent him?—I am not sure that I heard the whole, because I frequently go in and out of this House, therefore I cannot take upon myself to say that I heard the whole; but I must beg to observe, that the sending Restelli had not reference merely to the families of those witnesses whom he brought over with him to Dover; the occurrence at Dover had occasioned an alarm to the families of all persons who were sent over, or to come over as witnesses in support of this bill.

Do you mean to state that the intention of sending Restelli was, that he, Restelli, should at Milan go round, and in the country in the neighbourhood of Milan, not merely to the families of those he had brought over, but all others who had come over, and others also who might come over?—To the families of all those that had come over, as far as he could; and, under Colonel Brown's direction there, Restelli was to go and to take letters to the families and relations of persons who are here; as to the families of those who might come over here as witnesses it could have no reference, because they were not in danger.

State, not within one or two, but as nearly as you can recollect, how many witnesses came from the north of Italy?—I cannot tell.

As nearly as you can tell, about how many, not within one or two, or six or seven, but about how many witnesses came over from the

North of Italy in support of this bill? I cannot tell; I do not know the numbers who are here now, and I cannot tell.

Will you swear there were not forty?

The Attorney-General objected to the question, as totatly irrelevant.

Mr. Brougham contended it was not, for that the witness did not confine his answers to the witnesses who came with Restelli, but spoke of them generally. He now said that he cannot swear to the number, even to a dozen.

Had Restelli remained in this country the whole time which intervened between the riot at Dover and the 14th of September?—Restelli went to Holland.

Did he go any where else?—I cannot tell.

Had he any instructions to go any where else?—He had instructions to go to Holland.

Had he instructions to go to any other place?—Not that I know of.

Will you swear he had not been back at Milan between the riot at Dover and the 14th of September?—No, I will not undertake to swear that he had not; I did not see him afterwards.

State the language you used to Restelli in giving him his instructions before he set out on the 14th, as far as is connected with this inquiry?—As far as I can recollect (I cannot state the precise words) I told him he should collect letters from all the witnesses who were there, and that he should take them, and see the persons in Milan and that neighbourhood, and communicate to them the situation in which he had left them—that they were all safe—in order to ease their minds from the alarm that was, I understood, prevalent.

Did Restelli make any difficulty about going?—No, he did not make any difficulty about going.

Did Restelli say any thing about coming back at that time?—He said he would come back as soon as he could; I knew that Restelli was a very important witness in the proceedings on this bill, and that he would be a very important witness, as I believed in the House of Commons, in case the bill should go there; I had no motive whatever, therefore, in sending him, except that which I have stated; and I certainly repeat what I have before said, that if I had not had the strongest conviction in my mind that Restelli would have returned to this country, no inducement whatever, and no feeling, should have made me send Restelli out of this country.

The Attorney-General.—Were you present in this House when the Attorney-General of the Queen stated, that he did not intend further to cross-examine any of the witnesses who had been called in support of the bill?—I was, and heard him so state.

Has any intimation ever been conveyed to you, or to any other person to your knowledge, by the agents or counsel for her Majesty, that Restelli would be wanted again to be cross-examined by them?—None whatever; and I considered it not at all probable that Restelli would be wanted to be cross-examined by them, because I had understood the House to have called up Theodore Majochi, who was the only person called up for re-examination, under special favour, and as a special act of the House, not one to be continued with respect to all the other witnesses, who had been examined and cross-examined, and their cross-examination done with.

Has any intimation ever been conveyed to you, or to any person to your knowledge, that her Majesty's counsel meant to call Restelli as a witness for the Queen?—None whatever.

Had you, when you dispatched Restelli to Milan, or had any other person with whom you have communicated, to your knowledge, the slightest intention of withdrawing Restelli from this country, in consequence of his having given evidence in support of this bill?—None whatever, and no person, for any consideration whatever, should have prevailed upon me to do such a thing.

Examined by the Lords.

The Earl of Lauderdale.—Was not Restelli along with the witnesses at the time of the riot at Dover?—I understood he was; I understood so from him.

Lord Kenyon could not see how the answer to this question could be received in evidence, as the witness could only know of the fact through another person. How, then, could what that other person told him be heard from this witness.

The Earl of Lauderdale replied, that, if to receive his answer to this question was not evidence, he did not know what evidence was.

The Lord-Chancellor was of opinion that the question might be put.

The Earl of Lauderdale.—Do you know whether, between the riot at Dover and the time of Restelli's quitting this country, there was any courier went from this country who was present at the riot at Dover?—Not any, that I know of; I do not know who were present at the riot, and therefore I cannot tell; not to my knowledge, certainly; I was not at Dover,

The Marquis of Lothian.—Was not Restelli himself maltreated at Dover along with the other witnesses?—I understood they all were maltreated.

The witness was directed to withdraw.

The Earl of Lauderdale said, that for the purpose of putting on record the part he had taken in this examination, he should move that the examination of Mr. Powell should stand a part of the proceedings upon their journals, but that it should be printed separately, so that the general minutes of evidence, and the testimony of Mr. Powell, should be kept in a distinct form.

Earl Grey thought it extremely probable the House would concur with his noble friend in the propriety of preserving on their journals a record of this testimony, as a part of their judicial proceedings, and not that it should be kept in a separate form: for what was the state of the case? A complaint was made of an obstruction to the orders of the House; and the House proceeded to inquire *into* the circumstances of that alleged obstruction. It

was important, therefore, that their journals should contain a record of what they had done, and that it should be seen hereafter they had discharged their duty by examining into all the circumstances of the complaint.

Lord Erskine said he was extremely anxious that their lordships should not stultify themselves in the manner of conducting their proceedings. It was then near one o'clock, and the examination of the witness had gone on from the beginning of the day: their lordships were not surely, therefore, to be called upon to say such an examination was irrelevant. If it were to be printed separately merely because it was irrelevant, that would be a reason why some of his noble friend's questions should be preserved in a similar manner. Their minutes ought to stand clear of contradictions. He could not understand the anxiety of his noble friend to put on record his share of the proceedings, for their minutes must necessarily contain the whole of what was done by the House. That Mr. Powell's evidence should stand upon their proceedings was clear; but why it should be separated from the rest of the minutes he could not conjecture. The object of this particular inquiry was to ascertain the reason why Mr. Powell had sent Restelli out of the country, contrary to the orders of the House; and whether, for so doing, he ought to be punished. The whole of his evidence ought to be printed, of course; but he agreed with his noble friend (Earl Grey) in thinking it ought to stand as a part of the general minutes.

The Earl of Lauderdale said, that really he did not mean more than that this evidence should be kept separate from the other minutes relating to the bill, in the proceedings of which every rule of evidence had been repeatedly violated. Notwithstanding this violation, they were constantly declaring their anxiety to assimilate the form of their proceedings to that observed in the courts of law. Now, in these courts, the proceedings, were always opened by counsel, who then asked the opinion of the judges; but what was the case before their lordships this day? Why, that four of the judges (the peers) had opened the case, and then called on counsel, whose violence they mimicked, for an opinion. All he asked was, that it should be shown one peer at at least refused to sanction this violation of all legal form.

Earl Grey begged to ask his noble friend whether he was one of the four judges who had mimicked the violence of counsel? If his noble friend thought he was, he should only say in reply, that nothing whatever should induce him to mimic his noble friend's extreme mildness and forbearance in conducting himself during these proceedings. His noble friend had said that four judges had this day opened the case. Now he (Earl Grey) was not aware that any case had been opened, or that any thing had been done by the House, that day which any judge, under similar circumstances, would not have ordered to be done any where. During their proceedings in this strange and anomalous exercise of their functions, partly legislative, partly judicial, an obstruction was complained of, whereby the ends of justice were impeded; the party charged with committing that obstruction was brought up for examination before the House had proceeded any further in the inquiry. Was not this the correct and proper course? He admitted that he felt strongly, and had expressed himself as he felt, in a former stage of these proceedings. The business of this day he had already described; and he repeated that the course taken was dictated by a sense of duty to the bill, the public, and the parties more immediately and materially concerned in the result.

Lord Redesdale thought that Mr. Powell's evidence ought to be printed in a separate form, for it furnished no evidence either one way or the other on the subject of the bill under their lordships' consideration. It ought to be printed certainly: but he was sure no noble lord would suffer it to operate upon his mind unfairly or improperly.

The Earl of Donoughmore concurred in the propriety of having Mr. Powell's testimony printed. He thought it most material, not only to the ends of justice, but also for the interests of all the parties in the bill, that the whole of the long cross-examination which had been just concluded should be carefully preserved. There were, it was true, various anomalies connected with the proceedings in this case; but still, irrelevant as the last witness's testimony might be in one sense, as connected with the general question upon which the House had to decide, they would not have done their duty if they had not gone into that examination. The noble earl then condemned the needless interposition of technical difficulties in the progress of the case, and complained that

three hours of this day was taken up in an examination which ought to have been concluded in half that time. The real and primary object ought to be to investigate fairly and fully the real truth of the case. With respect to who was the prosecutor in this case, he thought it right to say that he considered this bill as the bill of the state—as the bill of his Majesty's government, who could not properly refrain from entering upon this inquiry. If they (the ministers) were not the prosecutors in this case, he knew not who were the prosecutors in any case that had ever undergone discussion; He should therefore avow at once, that they were the prosecutors; nor could he see the delicacy of keeping back that fact: he would say more—that if they had not on this occasion come forward as the prosecutors, they would have neglected their public duty. It being, however, a state prosecution, and one in which there was necessarily so much power on the one side, they were bound to open the door as wide as possible on the other for the admission of all the purposes of justice. Most certainly, he thought, Mr. Powell's evidence ought to be preserved.

The Earl of Carnarvon was at a loss to see for what purpose Mr. Powell's evidence was to be shut out from their lordships' consideration in looking at the merits of the case, and printed in a separate minute Let the House look at the state of its proceedings if they so decided. They had called for the evidence—they had invited counsel for and against the bill to give their opinion upon it; and now they were to vote that what they had been so formally doing was no part of their regular proceedings, but a private minute.

The Lord-Chancellor said that, in putting on record his opinion, he did not wish to interpose any technical difficulties. The House must, however, see that it was of vast importance, when they decided either upon evidence, or upon any other points which might incidentally arise in the progress of the case, that the courts below, who might have hereafter to look up to these occurrences, should have a record of the reasons upon which their lordships' judgments had been formed. This examination must, of course, be printed; and he wished to mention a circumstance that had been just communicated to him, which was, that if it were printed separately, the clerks of the House would have it in a printed shape *ready* for distribution early on Monday

morning, which perhaps might not be the case, if it were left to be delivered with the regular minutes of the case on the bill. Perhaps, however, it would be as well to make no order at present upon the bill. The evidence could be printed, and it would be time enough hereafter, if any noble lord thought proper to bring the matter before the House, to consider whether it should form a separate or an integral part of the proceedings. Much had been said in the course of this discussion about the anomalous character of their lordships' proceedings in this case: but there was no anomaly in a proceeding partly legislative, partly judicial: it was, on the contrary, a course of proceeding perfectly well known to the constitution. The motives of their lordships, while acting as judges, were also spoken of: now he always spoke with delicacy of the motives of judges, for he could not take upon himself to decide upon their motives; but he must say, that some noble lords who spoke yesterday did speak in such a tone—he did not mean that in their language there was any thing so objectionable—but that they spoke with such a species of noise, that no interpreter, if called to the bar, could explain the meaning of it. He hoped he should not hear this again, as he thought it highly objectionable.

No particular order was given respecting the form of printing Mr. Powell's evidence. It was merely ordered to be printed.

JOSEPH PLANTA, Esq. was called in, and having been sworn, was examined by the Lords.

The Earl of Carnarvon.—Are you under secretary of state in Lord Castlereagh's office?—I am.

Do you remember any application having been made to you by any person in the month of September for a passport for an Italian of the name of Restelli?—I remember that Mr. Powell came to me in the office in the month of September, and stated that it had been determined to send Restelli as a courier, and desired me to take the official steps for that purpose.

What did you do in consequence of that application?—I, in consequence, ordered the passport to be made out for him, and took the steps which were proper.

By whom was that passport signed?—By Lord Castlereagh; that is to say, if I might be allowed, I should explain that; there are signed passports kept in the office ready for such occasions, that therefore it was a signed passport which was used for that purpose.

Did you make any application to Lord Castlereagh respecting the granting of that passport?—I did not.

Did you, of your own accord, grant that passport, in consequence of Mr. Powell's application?—I did.

Is it the practice of your office, for persons in your situation to grant such passports to couriers, without an immediate order from Lord Castlereagh?—It is the constant practice.

Had you received from Lord Castlereagh, or from any other person, any instructions with respect to the granting passports, or otherwise, to persons who had attended as witnesses at the bar of this House in the progress of this bill?—I had received no instructions whatever from Lord Castlereagh, or any other person, with respect to witnesses or persons attending at the bar of this House.

At the time that passport was granted did you know that Restelli had been examined as a witness upon this bill?—I knew it generally, from the knowledge one has from reading the newspapers; the general knowledge one obtains of the events of the day; but I did not know it otherwise that I am aware of.

Do you know on what precise day that passport was granted?—I believe on the 14th of September.

Do you know whether Courier Restelli was charged with any dispatches from the Foreign-office, or only the dispatches given to him by Mr. Powell?—I think certainly not with any dispatches from the Foreign-office.

Do you know whether any passport has been granted to any courier for the purpose of calling back Restelli?—I know that passports have been granted to other couriers, but what the object of their going might be I do not know; what I mean is, that I do not know, of my own knowledge, that their object was to recal Restelli.

In what capacity did you consider Mr. Powell to have applied for the passport for Restelli; in what capacity did you consider him as acting?—As an agent on the part of the prosecution, certainly.

When Mr. Powell made the application for the passport for Restelli, did he at the same time make an application for other passports for other persons to return to Italy with Restelli?—I think certainly not.

Has Mr. Powell made any application to you, at any other time, for passports for other witnesses on the part of the prosecution to go away?—Certainly not.

Were you acquainted with the orders of this House at the time you granted this passport, the order respecting the witnesses not being allowed to leave this country?—I had no knowledge whatever officially of it; I merely knew it in the same manner that one would know any thing one sees in the newspapers.

The Lord-Chancellor asked whether the counsel wished to propose any question to be put to the witness.

Mr. Brougham.—Did Mr. Powell say any thing else to you respecting Restelli's going back to Italy at that time?—As far as I recollect, he mentioned something about Restelli's being a proper person to return to satisfy the families of the witnesses here, he made some statement of that sort, but I did not attend to that, I did not consider it as my business, I merely did the official act.

Did he say any thing else respecting Restelli's return to Italy at that time?—I really recollect nothing else that he stated.

Did you recollect his mentioning that Restelli had been examined as a witness at that time when he applied for the passport?—I do not recollect that he did.

Was any body by at the time of this conversation with Mr. Powell?—I really cannot recollect, it is a month ago, whether there was any

body in my room at the time; there are a great number of persons constantly in my room; I fancy there may have been others. Mr. Powell came in and staid but a short time, but I cannot recollect whether there were others; it is very likely there were other persons in the room.

You say that passports have been granted since the 14th for couriers, do you mean to send couriers on business connected with this bill; this prosecution as you call it?—Certainly, I do mean that.

What was the earliest of the passports after the 14th of September granted in this way?—That I really cannot recollect; I cannot possibly know that now, at this moment.

How soon can you take upon you to say that a passport was granted of this description to the North of Italy, after the 18th of September?—I really do not know; I do not keep the book of the dates of the passports, all I have to do is to give the order for its being done; it is done, and a register kept of it; I do not keep the dates myself, and therefore I do not recollect the next date after the 14th.

Endeavour to recollect the date of the other passports with the same accuracy as you have recollected this?—In consequence of what had passed, I ascertained last night, from the proper official person, that it was the 14th; previously to so doing I had no knowledge of the date of that.

Mr. Planta then withdrew with directions to ascertain the date of the earliest passports after the 18th September to the North of Italy.

The counsel were directed to withdraw.

The Earl of Carnarvon then again drew their lordships' attention to the question which he had already submitted. It did not, as he apprehended, call for any opinion of counsel upon the evidence; but a material fact having appeared in evidence—the fact of Restelli being gone out of the country, although it now appeared necessary for the ends of justice that he should be called back to the bar—this having appeared before their lordships made it incumbent on them to inquire of the counsel whether they were prepared to proceed to other parts of the case. He should, therefore, move that counsel be called back, and informed of the fact; after which the Queen's counsel should be asked whether they were ready, notwithstanding such notification, to go on with their case.

The Lord-Chancellor said he had a personal duty to perform independent of his other functions, and this duty compelled him to observe that he was most decidedly averse to the proposition of the noble earl, and clearly of opinion that, after the fact respecting Restelli's departure was communicated to counsel, the subsequent part of the question ought not to be put. If counsel had themselves stated that they could not pro-

need, they would then be to be asked for their reasons, on the validity of which their lordships would have judicially to decide. The point in question was of the last importance; for if the question were thus put to counsel, it might lay them under an obligation of stating reasons, which, in many cases, it was their sacred duty to withhold. But when the counsel themselves interposed to make the application, they were supposed to have looked round their case, and to be in a situation to state their reasons for so applying to the court. The court could never act judicially on the opinions of counsel; and he thought it would be to establish a dangerous precedent to adopt the noble earl's proposition. He should therefore move, as an amendment, that counsel should be called in, and, after communication made to them of the fact, that they should be asked, generally, whether they were ready to proceed?

The Earl of Carnarvon said, that either the House or counsel ought to come to some decision on the subject.

The Lord-Chancellor said, that the original question then was, that counsel be called in, and asked whether, under the circumstances of Restelli being at this moment abroad, they were prepared to proceed with the other parts of their case?

The Earl of Carnarvon was of opinion that the words "on the public service" ought to be introduced after the word "abroad," in order to show that Restelli had not absconded.

This suggestion was put, and negatived.

A noble Lord then moved, that the communication should stand "had been sent abroad by Mr. Powell."

The Earl of Liverpool said that, in point of fact, he had been detained there some time by illness.

Lord Holland expressed his astonishment that the House should be engaged in a discussion as to the most proper manner of communicating to counsel that which counsel perfectly well knew already.

The Earl of Liverpool said, it certainly might be better to give no formal information, but wait till it was seen whether counsel would make any application to the House in consequence of what they were already apprized of.

The Marquis of Lansdowne objected to their lordships adopting as their own the words used by Mr. Powell in the account which he gave of this transaction.

The Lord-Chancellor observed, that if counsel had not been, in point of fact, out of the House, there could be but little doubt that they were in possession of all the information which it might otherwise be necessary to communicate.

The original question was negatived, and the counsel were again called in, and the counsel for her Majesty were directed to proceed.

Mr. Brougham then, addressing their lordships, hoped that he and his learned friends might be allowed to retire for five minutes before they made up their minds on a question of so much importance, and that required so much consideration.

The Lord-Chancellor said he joined cordially in the feeling manifested by their lordships generally, that the request of the learned counsel ought to be complied with.

Mr. Brougham.—For about a quarter of an hour.

The Lord-Chancellor.—During your own pleasure.

The counsel then retired, and remained out half an hour.

A few minutes after two o'clock, Mr. Brougham, Mr. Denman, and the other professional advisers of her Majesty, returned to their stations below the bar; his Majesty's Attorney and Solicitor-General, and their coadjutors, also made their appearance.

The usual motion, "that counsel be now called in," having been agreed to,

Mr. Brougham advanced to the bar; and, being asked by the *Lord-Chancellor* what course he meant to pursue with respect to the further progress of the case, the learned gentleman said, that in the extraordinary circumstances in which he and the other counsel for her Majesty were placed, and under the new and insuperable difficulties by which they were surrounded, he felt it impossible to announce to their lordships any determination which they had come to as to what future course they might feel themselves compelled to pursue in the further conduct of their case, more than to state that they would to-day pursue a little further the line of examination in which they had been engaged yesterday.

FILIPPO POMI was then called in, and having been sworn, was examined by *Dr. Lushington*, through the interpretation of the Marchese di Spineto.

In what part of Italy do you usually reside?—At the Barona.

How long have you resided there?—In my own parish for thirty-five years; in the place where I work by day, fourteen.

Is the Barona the name of a parish?—It is.

Have you resided in the house at the Barona, where the Princess of Wales resided?—I have been living fourteen years in that house.

Do you remember the Princess of Wales residing in that house?—Yes, I do, by night and by day.

What are you by trade or profession?—A carpenter.

Do you know Giuseppe Restelli?—I do.

Was Giuseppe Restelli in the Princess's service?—He was a groom.

Do you know Louisa Demont, a chambermaid in the Princess's service?—I do.

Do you remember, in the course of the last year, Restelli coming to the house at the Barona?—I do remember it.

By whom was Restelli accompanied?—Restelli came together with the son of the head master.

Was Demont with Restelli at that time?—Demont came half an hour after, in a carriage with other persons.

Were Restelli and Demont on that occasion together in the house?—They were.

What did you see Restelli do on that occasion?—I saw them make a little drawing or plan up stairs.

Did Restelli, on leaving the house, offer or give you any money?

The Attorney-General objected to this question. The witness ought to be asked, what did Restelli do?

Dr. Luskington conceived the question to be perfectly regular.

The Attorney-General.—You cannot lead.

Dr. Lushington.—I don't mean to lead the witness.

The Attorney-General.—My lords, I apprehend that this is a leading question.

Mr. Denman.—I apprehend that it ought to be rather a leading question. Restelli has sworn that he offered no money to procure witnesses, and we have a right to ask a direct question, for the purpose of contradicting him.

The Lord-Chancellor held the question to be admissible; and, after it had been read by the shorthand-writer, the witness answered, as follows:—

He asked me whether I had received presents from those persons who had come, and I said no; and he afterwards made me a present.

Of what amount?—He made me a present of forty francs, two half Napoleons or forty francs.

Did Restelli say any thing respecting Mademoiselle Demont then, when he gave you the money?

The Attorney-General interposed.—Their lordships could not receive evidence as to what Restelli said to a third person.

The Lord-Chancellor.—The question, I apprehend, ought to go to this—not whether Restelli offered any

body; no matter whom, money—but whether he offered money to any person coming here as a witness.

Dr. Lushington.—Certainly, my lord, that is the way in which I meant to follow it up.

Did he offer any money to induce you to come here as a witness?—He did offer me on another day, not on that day; but he offered me not—not on that day, but he told me, that if I had any thing to say against her Royal Highness I should receive a great present.

When was it he told you you should receive this great present if you had any thing to say against her Royal Highness?—I said that I had nothing to depose against her Royal Highness, and that I had nothing to speak but well of her.

State, as nearly as you can, the exact words which Restelli used when he told you that you should have a great present if you came to speak against the Princess?—He told me, "Pomi, if you like, you may make yourself a man;" I asked him in what manner, he answered, "You, who have always lived in this house, day and night, may have something to depose against her Royal Highness;" I said, that I had nothing to depose against that lady, who had always done a great deal of good.

Was Mademoiselle Demont present upon that occasion?—She was not.

Did Restelli, at the time he made you this offer, mention the name of Demont to you?

The Attorney-General objected to this question. A conversation about Demont could not be received in evidence.

Mr. Denman submitted that, as a question likely to lead to important information with respect to transactions connected with this case, in which Restelli was engaged, it ought to be received.

The Attorney-General.—The witness has sworn that Demont was not present at the time, and therefore the question was irregular.

Mr. Denman.—The circumstance of Demont's not being present is of no importance whatever.

Lord Erskine observed, that the reason for asking the question was quite obvious, and it appeared to him to be one that ought to be answered. Restelli, it appeared, had taken an active part in this business, not only as a courier, but as an agent who procured witnesses. He was charged with having acted corruptly, and it was necessary to trace how far that corruption went. Therefore, whatsoever this man knew, that could inform their lordships on this part of the case, ought to be given in evidence, subject always to cross-examination and contradiction hereafter.

The Lord Chancellor said, under the peculiar circumstances of the case, he thought the question must be admitted. Something had been asked, on account of the

dence of Restelli, which, if he were present, could not properly be received: and he could not shut out evidence of that, which, if Restelli were at the bar, could have been explained by himself, because it was not the fault of those who opposed the bill that he was not forthcoming. If the case were otherwise, the question certainly would not be regular. Let the evidence now go on.

Earl Grey also concurred in the propriety of asking the question.

The Attorney General.—I must ask of your lordships is this question to be put.

The Lord-Chancellor.—Yes, it is.

The question was proposed, and the witness said,

No; because it was a few days after that he had with me this conversation.

Dr. Lushington.—The witness does not appear to understand the question.

The Solicitor-General said he and his learned friends protested against putting a question of this description to the witness. It had been admitted that if Restelli were here it could not be put, unless he was himself called and examined to the fact. He contended that such was the legal rule. The question could not be put unless Restelli was called to the bar, and interrogated as to the fact. If Restelli, on being so interrogated, had denied it, then it would have been competent for the other side to call witnesses to contradict him. Such was the undoubted rule of law. But it was said, that because Restelli was absent, the counsel for the defence might go into a course of examination that otherwise could not be permitted. But why should this be allowed, when, in consequence of the unfortunate mistake with respect to Restelli, the counsel on the other side might make a proposition to their lordships for the postponement of the further proceedings on this bill until the return of Restelli? It appeared to him to be fraught with great danger, if, on account of the accidental absence of this man, her Majesty's counsel should be allowed to take a line of examination that was never before tolerated. They might ask questions, the witness knowing Restelli to be absent, which, if he were here, would perhaps be answered in a very different manner.

Mr. Denman.—How does the witness know that Restelli is not here?

The Solicitor-General.—He was now asked, how the witness knew that Restelli was not present? He did not state positively that the witness did know it; but if he were in such a situation that by possibility he might know it, that was sufficient for his purpose, because it was clear that such knowledge might cause a material alteration in the witness's evidence. When he heard Restelli called "a corrupt and profligate witness in this case," he would say, that, so far as the evidence went, there was no proof to bear out such an assertion. He denied, on his oath, that he had participated in any transactions of such a nature; and witnesses, on the other side, had come forward, and sworn that he did. But he would ask, whether, in this stage of the question, any person, viewing the proceedings that had taken place before their lordships, could fairly take on himself to say, before the evidence was finished, before the case was concluded, that this man was "a corrupt and profligate witness," or that he was proved to have been implicated in any transaction that ought to prejudice his evidence in the minds of their lordships? It was, he conceived, the duty of the counsel on the other side to make application to their lordships, as Restelli's evidence was material to the defence, for a postponement of the proceedings until he came back; but he thought it was wrong, during his absence, to suffer, on that account, an examination wholly inconsistent with the rules of evidence, and entirely unfit for the elucidation of truth, to be persevered in.

Mr. Denman denied that her Majesty's counsel were bound to make any application to their lordships for a postponement of these proceedings; all they had to do was, to make such exertions as they might deem fit for her Majesty's defence, considering the peculiar circumstances in which she was now placed. And here he might be permitted to assure their lordships, that if Restelli had been in this country, it was the wish of her Majesty's counsel to have produced him at the bar of the House, as Majochi had been. Under the expectation that he would appear when called, her Majesty's counsel had actually summoned the witness at the bar to follow him, before they were apprized of the fact that Restelli had been *spirited* away from this country. When her Majesty's counsel were thus situated—when, without any error on their part, they were deprived of

a great advantage—he called on their lordships to support their claim to an extended examination. He, at the same time, entertained no doubt whatever, that the course her Majesty's counsel were now pursuing was accordant with the strict rule pursued in courts of justice. Restelli said he had nothing to do with the Milan commission, except as a courier; but her Majesty's counsel would prove, from his transactions, that he acted in another capacity; that he exerted himself to procure witnesses for money to swear against her Royal Highness. Restelli expressly swore, that he offered no money to any person to appear in the present cause, a statement which her Majesty's counsel were ready to rebut. In answer to this deposition they would show that, by a reference to the name of Demont, Restelli did make such an offer. Therefore he thought it necessary that the mention of the name of Demont should be proved, since it was by a reference to that person that the offer was made. He stood here upon the right which he was entitled to assume, in consequence of the extraordinary absence of Restelli, being perfectly convinced that the witness now at their bar was prepared to contradict his evidence, to show that many of his statements were altogether false. If, however, their lordships thought that her Majesty's counsel were not entitled to go into the matter arising from this question, he was still prepared to act with confidence on the proved agency of this man. On that point he was ready to proceed. It appeared that Restelli was the agent, not the courier of the commission; and, for the purpose of a further contradiction of that man's testimony, he had a right to inquire as to what he had stated relative to Demont. He had clearly a right to show that a certain representation had been made by Restelli, when he referred to the name of Demont, which involved a contradiction of the evidence he had given before their lordships.

The Lord-Chancellor.—Let the two or three last questions be read.

The shorthand-writer read them.

The Attorney-General was then heard. He apprehended that the question could not be put, for the reasons so forcibly advanced by his learned friend, which were not met by any sufficient arguments on the part of her Majesty's counsel. He had heard it repeatedly as-

serted that this man Restelli, was acting in the nature of an agent, for the purpose of procuring witnesses to attend at their lordships' bar; and that, therefore, what he had stated as evidence was not to be credited. Now he would assert, that agent this man never was for any such purpose. The only purpose for which he was employed appeared to be to bring witnesses to Milan, to be examined before the Milan commission; but there was no evidence that he ever procured witnesses to be examined before their lordships. He would ask whether it was ever heard of, in a prosecution like this—in a criminal prosecution—that the conversation of an absent person was attempted to be proved, when he himself might be called and examined? It was said that no party appeared in support of the bill. Who was the prosecuting party in every criminal prosecution? The public, always. But was it ever known, in any criminal prosecution, that an examination might be carried on through the medium of a third person, when the individual whose words were to be proved might himself be called. Restelli stated that he was employed on the Milan commission to conduct evidence to Milan, evidence that certainly might afterwards support the bill. But the question asked of him was, "Did you receive money to bring witnesses to the bar of this House?" and his answer was, "No." The question now put was, not whether he gave money to bring the present witness to their lordships' bar, but it referred to a conversation which was held with the witness, in which the name of another person was mentioned. He would contend, however, that his learned friend must confine his examination to the question originally put to Restelli, namely—"whether he offered money to any person to come to that House?" to which question he had answered, "No." As to the fact of such an offer having been made to the witness, he knew that evidence relating to it might be received; but, as to Restelli's conversation with other persons, he denied that any deposition on that point could be attended to, even if he were present, except to contradict, supposing him to have declared that he had held no such conversation. He would now call back their lordships' recollection to what had taken place at the close of the case for the bill; he would call their recollection to the express declaration of the Queen's Attorney-General, that he should want no farther examination of the witnesses in support of the measure. He

knew their lordships had reserved to themselves, under the exigencies of the case, the right of calling back witnesses, if they thought it necessary. This, however, was not meant for the advantage of the counsel on the other side; their lordships only asserted their right to call back witnesses for their own satisfaction. Now, however, her Majesty's counsel, after their express declaration, wished to put questions to a particular witness. They had stated no cause why they wished to bring him forward again. All that he understood was, that Restelli was to be brought up as a witness for the defence—as the witness of the other side; not for cross-examination, but as a direct witness. But if he even were at the bar, they could not, in that case, ask him as to those declarations, because they could not summon a witness to come forward with a view to make him contradict himself. If Restelli were at the bar that instant, called forward by his learned friends on the other side, no examination of the nature now attempted, with respect to the case of Demont's name on the occasion alluded to, could be allowed. Then, he would ask their lordships whether his learned friends were justified in placing themselves in a better situation than they would have stood in if Restelli were present? His learned friend had said, he wished to call this man to the bar as a witness for the defence. But if he were present, not a question that had been asked, put in the way in which they were put, would have been allowed. As their own witness, his learned friends would not be suffered to ask questions to make him contradict himself. He would point the attention of their lordships to the situation in which they were now placed. He regretted, in the fullest extent, the circumstance of Restelli's absence on this occasion—his innocent absence—occasioned by an ignorance of what was likely to occur. But, because this individual chanced to be absent, were they to depart from all the rules of evidence? If his learned friends conceived that Restelli was a witness in their favour, on this inquiry, then, he contended that a certain delay should be prayed for by them, in order that he might be brought here as their witness. It was for their lordships to consider whether such a delay should be granted; but if an application of that description were not acceded to, his learned friends ought not to be placed in a situation to which they could have no claim if the individual were present. He trusted that

their lordships would not come to a conclusion as to the character of Restelli, until the proceedings were terminated; he hoped they would wait, with reference to that point, as he was sure they would do with respect to that which was of infinitely more importance—the truth or falsehood of the preamble of this bill—until the whole case was proved. Whatever Restelli had done or said, their lordships would decide on by weighing and balancing the evidence. They would view the whole case with a judicial eye. Looking to the law of evidence, he submitted, with great deference to their lordships, that this question could not be put. The witness had been asked whether an actual offer of money had been made to him; that question had been answered; and he would maintain that they could not afterwards go into evidence as to a conversation in which the names of other persons were mentioned.

The Earl of Liverpool said, he was not competent to decide how far the question in dispute might be put if Restelli were present. But he did think that Restelli being absent for reasons with which the counsel on the other side had nothing to do, being absent from causes which, however explained, left the *laches*, in the eye of the law, on the other party, that party should not prevent the putting of this question. The only point for consideration was, whether supposing the question could not be put if Restelli were present, it ought, under the peculiar circumstances of the case, to be allowed now? As the absence of Restelli was not attributable to the counsel for the defence, he thought the question ought to be admitted.

Lord Erskine supported the question.

The Lord-Chancellor.—The witness had been asked whether any money had been offered to him, and he had given his answer to that question. It was, therefore, a matter for their lordships' consideration whether the subsequent interrogatory was not stretching the inquiry too far. Perhaps it was not, if they considered how peculiarly circumstanced they were. With respect to the witness whose evidence was meant to mislead, he was bound, until the moment that witness was convicted, to consider him as honest a man as any that had been produced in the course of this proceeding. If, in the end, he was contradicted, so as to put it out of his power to clear himself, then he and their lordships would have a

right to take a different view of his character. He could not agree that the witness should be described as one who had been "spirited away." He was away, beyond a doubt, but there was no reason for saying that he was spirited away. It would be for their lordships to decide whether, because counsel, when asked if they had any further questions to put, answered in the negative, therefore, for the reasons that had been stated at their bar, the sending away of a witness was allowable. He did not think, because a counsel stated that he had no further questions to ask, on cross-examination, that it must be taken as granted that a necessity might not arise for a further examination, in consequence of information which that counsel might have received at a subsequent period. Circumstances might be disclosed which would induce the counsel to call the witness back again, for the purpose of putting certain interrogatories to him, the answers to which he might have an opportunity of contradicting. As it seemed to him, the learned counsel for the defence meant to call Restelli as a witness in chief: so, to him, it certainly appeared. But he could not go the full length of saying, because it so appeared to him that it was intended to produce Restelli as a witness in chief, that therefore it would have been incompetent to the learned counsel to have waved their determination, and called him as a witness, whose declarations after he was examined were to be contradicted. Undoubtedly, their lordships were placed in a situation of great difficulty, not by any fault of their own—not by spiriting away a witness—a circumstance which would, by and by, be fully, fairly, and impartially discussed :—the great difficulty they had here to contend with was this—whether, as Restelli had been sent out of the country by some of those who were now acting in support of the bill, they were to impose on her Majesty the disadvantage of postponing her defence, not in consequence of her act, but of their act? If Restelli had been here, different questions might have been put to him relative to the point spoken to by the present witness. If he had denied the alleged facts, that witness might have been called to contradict him. But his absence had altered the course of proceeding. The matter finally resolved itself into this point—if the question now put were admitted, whether it did not go to confirm the fact that Restelli had made such applications as had

been alleged, under particular circumstances—whether he had not used the name of another witness, who was actually coming to this country, at his desire—and whether, in that conversation, in which money was offered, the name of Demont was not mentioned as a species of communication that was to induce the witness to accept of a reward. These were very important questions, and could only be put to the witness in consequence of the absence of Restelli. In the first place he wished some of the preceding questions and answers to be read.

The shorthand-writer read the principal part of the examination.

Dr. Lushington then proceeded.—I want to know, at the time the second conversation took place, when the offer of money was made, whether the name of Demont was mentioned by Restelli?

The Attorney-General did not think that the question now put was consistent with the questions and answers that preceded it.

The shorthand-writer read a considerable portion of the examination.

The question was then put in this form:—

Where did this second conversation take place?—It took place on a morning that he called upon me, and we went together to the inn.

Did he then make you any offer or promise of money if you would become a witness against her Royal Highness, in what words, as nearly as you can recollect?—He told me, "Pomi, if you have any thing to depose against her Royal Highness, now is the time you will have a great present; you will become a great man, and shall receive a great present;" we went to the inn together, and we drank there.

Did he then, when he told you you should have a great present, ment on the name of Demont?—Yes, he did mention the name of Demont.

Did he mention the name of Demont with reference to any offer of money that he made you?

The Attorney-General objected to the question.

The Lord-Chancellor said the counsel might ask with reference to what did he mention the name of Demont.

With reference to what did he mention the name of Demont?—I asked him whether Demont was still in the service of her Royal Highness; he told me that she was; he did not mention to me her name on the day he was taking the drawing, but he mentioned it on the second day, and told me that she had made a good day's work: we were there at the inn, and we drank together.

Mr Brougham begged to put a question to the interpreter, whether the witness had not added to the answer which had been now translated, the words which he

about to mention. Two or three gentlemen, not within the bar, had heard the witness add, (here Mr. Brougham repeated in Italian, words to the effect) that Demont had received a large sum.

Mr. Cohen was asked by Mr. Brougham whether he had not heard those words, and he stated that he had.

The question and answer were read by order of the House, with the addition that "she, Demont, had got a great sum of money."

The Earl of Liverpool suggested that Mr. Cohen should be sworn to the hearing of the words stated to have been added by the witness.

The Attorney-General submitted that the question ought to be again put to the witness, and the witness could then himself give the whole answer.

The Lord-Chancellor directed the interpreter to tell the witness, that when he, the interpreter, held up his hand to stop the witness, the witness should understand that he was to delay the rest of his answer till the interpreter was done with translating the former part; for no human memory could carry every word of a long answer at once.

The interpreter communicated this to the witness.

The question was again proposed, and the witness said,

I asked him for this thing, because I told him, tell me how is this business, for he told me that Demont was still in the service, and then I found out that she was here; and he told me at that time that if I would depose something I should have a great present; and I said that I had been night and day, a long time, in the House, and I never saw any thing that enabled me to speak ill of that lady; then he told me you know nothing, for I tell you that that House was a very bad house, bad women, and so; and I answered that this was a real falsehood, for I had been in the house day and night, and I saw nothing of this; and we ended so.

The Attorney-General objected. What had the conversation between Restelli and the witness to do with the evidence before their lordships.

Dr. Lushington contended that it was most material evidence. That Restelli offered money was a fact of the greatest importance in this case, and the whole of the evidence now given went to prove that offer.

The Lord-Chancellor asked if the answer now given by the witness was part of the conversation in reference to Demont, and suggested that the question should be put, "Whether any thing more was said relating to Demont?"

The question was put, and the witness answered, "No."

The Lord-Chancellor said that would not do, for the witness did not appear to understand the question.

The witness was directed to withdraw, and *Joseph Planta, Esq.* was again called in, and asked by the *Lord-Chancellor*,

What is the first date after the 18th of September of any courier going to the north of Italy on this business?—It appears to be on the 28th of September.

The witness was directed to withdraw, and *Filippo Pomi* was again called in, and further examined by *Dr. Lushington*.

Was it upon this occasion, that Restelli used the expression you have repeated, of making a good day's work?—Yes, it was on that occasion, that he was going about making recruits.

State all that Restelli said about making a good day?—I cannot express it; I must only say that he told me, that on that day, when she came there to make that drawing, she had made a good day.

Do you know a person of the name Riganti?—I do, he is a companion of Restelli.

Where does Riganti live?—At the Porta Ticinese.

Of what Trade is Riganti?—He sells salt, tobacco, brandy, and other liquors.

Does he live at Milan?—He dwells out of Milan, at the distance of two gun shots.

Has he ever asked you to come and depose against the Princess?

The Solicitor-General objected to the line of examination now attempted, as Riganti had not been witness in this case.

Dr. Lushington trusted that he should be able to justify the question by reference to the printed minutes. On page 410, *(Ch. p.* 439.) Restelli swore that he had not gone voluntarily of his own accord merely, before the Milan commission; the question was then put to him, "Who asked you to go before it?" and his answer was, "The first time a man of the name of Riganti asked me to go to the advocate, Vilmarcati;" adding, that Riganti was a tobacconist at Milan. Upon this testimony the learned counsel submitted that he was entitled to give as direct proof of the acts of Riganti as if he had actually been a party promoting the bill. It was well known to the House that the counsel for the Queen laboured under unexampled difficulties, the prosecutor never having yet taken shape or form. He hoped that on this account their lordships would feel no disposition to enhance their difficulties, by preventing them from showing the acts of agents without the necessity of calling those agents to prove their agency. The evidence of Restelli distinctly proved that Riganti was

like himself, an agent, but whether of the Milan commission-or of any other person or body could not be ascertained. The part of prosecutor here seemed rather to be sustained by a joint-stock company than by an individual, compounded of the House, the government, and the notorious commissioners of Milan; and whatever was done by subordinate agents must be treated as the acts of the principals, and might be proved accordingly. The prosecutor had appeared before the country already in two capacities at least: first, the government, who, aided by the junta at Milan, had originally got up the case; and, secondly, their lordships, who, with some ingenuity and considerable caution, had been converted from judges into prosecutors. All that the emissaries of the Milan commission, directed by the advocate Vilmarcati, had done—all the exertions they had made in collecting and brewing testimony against her Majesty, might be given in evidence at the bar, on the part of the accused. If it were otherwise, the hardship upon her Majesty was evident; for the prosecutor would have all the benefit of screening his underlings. Mr. Powell had this very day claimed the benefit of doing so; and the Queen's counsel would be under the double disadvantage of submitting to all the testimony the agents in Italy had gathered, without being at liberty to call in question any of the acts of those agents. What had been done in the particular case? On the application of Riganti, Restelli went to Vilmarcati, and there he was interrogated as to what he had been able to learn, and, adopting the agency of Riganti, Vilmarcati took Restelli before the Milan commission. He humbly prayed their lordships to consider in what condition the Queen would be placed if they refused the evidence now proposed to be given. If they rejected proof to show that individuals had gone over the whole of Italy, and indeed of Europe, committing subornation of perjury, it would convince the world that such conduct might be pursued with impunity, and the result would probably be, that other witnesses, obtained by the same shameful means, would crowd their lordships' bar. What hope of justice could there be if the House refused to inquire into all the acts of these agents, who, it was established, had thus busied themselves in manufacturing a case against her Majesty? Upon the whole, he contended that the question he had put ought to be answered, and

that the line of examination ought to be pursued, that their lordships and the country might know how the evidence had been obtained by promises and hopes of reward.

Mr. Denman begged to add a few words on the same side, reminding their lordships, that, though this was now admitted on the other side to be a criminal prosecution, yet it was also a divorce-bill, and that there were certain parties on whose behalf it was solicited. It was likewise said to be a proceeding for the purpose of obtaining substantial justice; and he begged leave, with great humility, to ask whether substantial justice could be obtained by the extensive system of subornation of perjury carried on in the north of Italy to purchase all the purchaseable witnesses against her Majesty; more especially if those witnesses were to be screened, who were not only paid for coming to the bar of this House, but for going before Colonel Brown, Mr. Powell, and the advocate Vilmarcati, at Milan. Riganti was at present in this country; at least he was one of the individuals who came over with Restelli; and whether he had returned to Milan to quiet the apprehensions of his friends and connexions, he knew not; but if he were still in England, the counsel for the Queen would certainly not put a person into the box as their witness whom they charged with the commission of crimes of the deepest dye. He could not, without surprise, be told that her Majesty was bound to make Riganti or Restelli witnesses on her behalf, when the very object of interrogating them would be to fix them with conduct the most abominable and atrocious.

[Some person here observed that such conduct was not yet proved.]

"I do not say (continued Mr. Denman) that such conduct is yet proved against them; but I apprehend that, as an advocate, I have a right to impute it. I have a right to state that such is the case I will make out; and I have a right, in every stage of the proceeding, to assume that what I assert I shall establish in evidence. I do not know that I should be justified in saying that these persons have been *spirited* away, or whether I should convey my meaning in a periphrasis, or only that they have been sent away: certain it is that one of them has disappeared at the instance of one of the Milan commissioners, in defiance of a direct order of the House of

Lords, in direct violation of a solemn pledge given by a peer at the head of the government, and by the assistance of an office over which another noble lord so warily presides. Unless my lips are to be sealed when I enter upon the defence of my illustrious client, I shall maintain, and I think it is but fair to give notice to all parties, that the most malignant and extensive conspiracy ever devised against the honour of a persecuted individual is the sole source and origin of the disgusting mass of corrupt evidence now upon the table of the House. It is to establish that fact I now claim, on the part of the defendant in this most criminal prosecution, that we should be allowed to prove the agency of Riganti. Unless I am to be told by the Attorney-General, that, this being a criminal prosecution, the conduct of the prosecutor is entirely out of the question, I apprehend there cannot be the slightest doubt that the mode and circumstances under which this evidence has been scraped together is most material to the great issue before the House. On that ground we tender the evidence now resisted; and, if we are not to be excluded from the only advantage this mode of proceeding offers to the accused, we must be allowed to proceed with it. If her Majesty had been indicted, or impeached, there might, perhaps, be some little question whether the acts of agents could be looked to as affecting some unknown and invisible principal; but, certainly, in a bill of pains and penalties, accompanied by a clause of divorce, solicited by the Solicitor for the Treasury, and by the agents of government, it is at least open to us to inquire what means have been resorted to, to procure the testimony. Mr. Powell has stated that the Milan commission suspended its sittings in July, 1819; but we are totally in the dark as to its proceedings, with that single exception, though we have every reason to believe that long before that time it was exercising its functions with great activity. When it was known, then, that such measures were adopted in Italy, by the King of England, to obtain a bill of degradation and divorce against his Queen, t would not be surprising if all that was base and perjured should voluntarily present itself in support of such a proceeding: but when we find, in addition, as we have found, that agents have been going about in all quarters to corrupt, bribe, and invent, is it too much that we should be allowed to prove the acts of those agents?"

The Attorney-General began his reply by complaining that the counsel on the other side had, as usual, gone out of their way to attack individuals not before the House. They had animadverted especially upon the members of the Milan commission; but he could tell his learned friends, and could assure their lordships, that, whenever the fit time should arrive for inquiring into the conduct of those gentlemen, all their acts would be completely justified; they were most anxious to have their conduct fully investigated, and it would then stand clear before the House and the public that nothing done by them at Milan, or in the progress of the commission, could reflect upon them the slightest discredit. But what had this question to do with the Milan commission? His friends had exhausted their invectives (he begged pardon, their invectives were not exhausted, for Restelli had again been dragged forward) upon the Milan commission; but what had it or Restelli to do with the point, whether the acts of Riganti should be made the subject of inquiry at the bar? All they could prove against Restelli had been proved; and now they wished to go further, and to examine as to the acts of a man named Riganti, assuming that he was an authorized agent of the Milan commissioners—

The Lord-Chancellor here interposed, and said, "I wish to know whether any noble lord thinks that this question can be put. It would be quite wrong to stop the argument if any noble lord entertains a doubt upon the subject, but to me it seems the most extravagant proposition ever urged. Whether the prosecutor is invisible, as one learned gentleman asserts, or so clearly seen that another learned gentleman can point him out as easily as a joint-stock company, I do not know; and whether that is language proper for the occasion is another matter. But whatever the House may think, whether the prosecutor be visible or invisible—whether this proceeding be or be not of a criminal nature—I deliver it as my opinion, without the slightest hesitation, that it is impossible to admit such a question."

The Earl of Liverpool desired that the question last put might be read, and it was read.

The Lord-Chancellor added, that no agency on the part of Riganti had been at all established.

The Earl of Liverpool, as it was very near 4 o'clock, moved the adjournment.

Mr. Denman said, that before the House adjourned he had an application to make. Restelli had said that Riganti came over with him to England; and it was material to ascertain whether Riganti was still here, so as to be produced at the bar if necessary.

The Solicitor-General apprehended that the learned gentleman had no right to interfere with the conduct of the case in favour of the bill, nor to dictate to the House who should or should not be witnesses. Whether Riganti would be called must be left to others to determine.

Mr. Denman denied that he wished to interfere or to dictate. What he submitted was, that as Riganti was proved to have acted as an agent under the Milan commissioners—

The Attorney-General.—That is not proved.

The Solicitor-General.—All that appears in the notes respecting this man is, that he communicated a message to Restelli, and that Restelli, in consequence, went to the advocate Vilmarcati.

The Lord-Chancellor.—If Riganti is in this country, it is in the discretion of those who oppose the bill to determine whether they will call him or not as their witness: they may have many weighty and justifying reasons for not doing it. It is certainly competent to the House, if it sees on the minutes the name of any man who it thinks can throw light on the subject, to determine whether it will or will not call him, and in what stage.

Mr. Denman.—It may be very material for the counsel for the Queen to decide whether they will or will not call Riganti, and for this purpose I wish simply to know whether he is in this country?

The Lord-Chancellor.—If you do me the honour to address me, Mr. Denman, I can only say that I am sure I do not know; but whether any body else is acquainted with the fact, I cannot tell.

The House then adjourned.

TWELFTH DAY.—October 16.

After the usual forms, *Earl Grey* said he understood that Sir J. Beresford was in attendance to give evidence respecting the service of Wm. Carrington, and proposed that he should now be called in and examined.

The Earl of Liverpool had no objection to that course being taken, if the counsel on both sides consented.

The Attorney-General and *Mr.* Brougham signified their concurrence in the proposed arrangement, when

SIR JOHN POER BERESFORD, BART. was called in, and having been sworn, was examined by the Lords.

Earl Grey.—Are you an admiral in his Majesty's service?—A rear admiral.

Did you, during the late war, command his Majesty's ship Poictiers?—I did.

Do you remember a person of the name of William Carrington serving on board that ship?—I do.

In what character did he so serve?—As quarter-master.

Was he never otherwise rated than as quarter-master of that ship?—Not while I commanded her.

Did he leave the Poictiers during the time you commanded her?—He left the Poictiers during the time there was an acting captain on board. Perhaps if I were to tell your lordships the circumstances, it would prevent a good deal of delay: at the request of Sir William Gell I procured the man's discharge from the Poictiers, by writing to Captain Jones, my acting captain, to beg he would rate him as my clerk, in order to get him his discharge, and he was discharged by Captain Jones rating him as a midshipman; as I fancy there was no vacancy for a clerk, he was rated a midshipman in order to get him his discharge.

You understood him to be rated as a midshipman previous to his discharge?—I did not: I never knew he was rated midshipman.

You were understood to state, just now, that Captain Jones had rated him as midshipman previous to his discharge?—I understood he was rated midshipman after he was discharged, in order to get his pay.

In point of fact he was rated midshipman before he was discharged?—Yes, the ship's books will best tell that.

Was it at Sir William Gell's request, and not in consequence of any request on his part?—At Sir William Gell's repeated request to me.

Did you give him, at the time of his leaving, a ship certificate of good conduct?—I gave him a certificate of good conduct either before he left the ship or after, I do not know which, but I gave him a certificate.

You gave him a certificate expressing your approbation of his conduct?—Yes, he was a very good man while I commanded the ship, and I gave him a certificate, as I do all good seamen.

Did you consider that there was any thing irregular in his conduct while on board the ship, or any thing irregular in his manner of procuring his discharge?—The first question I should wish to answer first; while he was on board the ship, there never was a man that behaved better; as to the irregularity of his discharge, if there was any thing irregular in it, which I believe there was, it was my fault, and not the acting captain's; I had it done in order to oblige Sir William Gell.

There was no fault of William Carrington?—No fault of William Carrington whatever; he was a very excellent man.

Lord Melville.—Are their lordships to understand from you, that William Carrington, in point of fact, never was a midshipman of the Poictiers, while you commanded that ship?—Never.

He never did the duty as a midshipman?—Never.

Do you recollect any conversation with Carrington, as to his being rated as a midshipman, or brought forward in the service as an officer?—Never.

Do you recollect his complaining to you, that he did not like

sea, and that he wished to get his discharge on that account?—I will state the proceeding before he said he did not like the sea.

Sir J. Beresford.—I wish your lordships would indulge me with explaining, by relating the proceeding by which he got his discharge; and I understood he did not like the sea.

Lord Melville.—Did he ever state to you, that he wished to be discharged from his Majesty's service, because he did not like the sea?

Sir J. Beresford.—I wish you would permit me to state the whole transaction.

Mr. Brougham.—As their lordships only wanted the truth, there could, he supposed, be no objection to the witness making the explanation he proposed.

Sir J. Beresford.—Sir William Gell asked me to do him the favour of sanctioning this man's discharge; I called Carrington, and said, "Carrington, what do you wish to leave the service? I hope to God you will not leave the service; he said he was very anxious to leave the service, he was pressed into it, and did not like the sea." I think those were his words, as nearly as I can be upon my oath, I was surprised when this discharge was asked for.

Do you recollect any correspondence with the Admiralty on the subject of his discharge?—I never had a correspondence with the Admiralty on the subject, and I did not know there was any correspondence with the Admiralty on the subject; if I had I would not have given him his discharge. I could not fly in the face of the Admiralty; because I think it was an improper thing Captain Jones discharging him at my request; if there is any blame for discharging him, I hope it will be attached to me.

The Earl of Lauderdale.—Was there any engagement that Carrington should be rated as a midshipman, or any understanding on that subject, at the time he came on board your ship?—No, he was drafted I believe on board the Poictiers from another ship; I had never seen him till then.

Was there any engagement during the time of his service as a quarter-master, that he should be made a midshipman when he was serving in your ship?—Not by me, there was no engagement.

I shall not ask you what the acting captain did; but did it come to your knowledge that any engagement for his becoming a midshipman was made by the acting captain?

Mr. Brougham.—That would not be evidence.

The Earl of Lauderdale did not know but that Sir John Beresford might have official means of knowing any engagement into which the acting captain had entered, and, therefore, he thought he had put the question in such a way as to avoid the objection.

The Lord-Chancellor.—Did William Carrington leave the service in the year 1811?—Yes, he did.

Had he, or had he not, been a midshipman for twelve months before he left the service?—No; he had never been a midshipman before he left the service, to my knowledge.

Did he ever decline the appointment of midshipman?—I never offered it to him.

Do you know whether he did or did not receive midshipman's pay for a twelvemonth?—The ship's books can best tell that; but I should say no; the ship's books are always regularly kept, and can be referred to.

The Duke of Clarence, with all submission to the noble and learned lord, thought that the question was improper.

The Lord-Chancellor.—If the question was improper, he ought not to have put it; but the answer certainly was not evidence, because it stated that the fact would be seen by the ship's books. Her books were therefore the proper evidence.

The Earl of Lauderdale.—Do you remember desiring Carrington to go down to the Thisbe, and ask for his papers?—I do not remember that, it is ten years ago since this occurred; but I got him put on the Thisbe's books, in order to get his pay for him; therefore I think it is probable it was so, but I cannot charge my memory with it exactly; the Thisbe was the flag-ship in the river.

At what time did you get him put upon the books of the Thisbe?—He was discharged from the Poictiers into the Thisbe, in order for him to get his pay; I think it was about June or July 1811; I was on shore at the time.

You are certain that you never gave Carrington any reason to expect promotion as a midshipman during the time he served as a quarter-master?—Not while I was in the ship.

Did Carrington ever state to you any difficulty, in point of expense, of dressing himself, and maintaining himself as a midshipman?—No; if he had I should have maintained him, as I did others in the service, till he could pay me again.

Mr. Brougham observed, that it was true the witness (Carrington) had stated, in p. 584, *(Ch. p.* 236.) that he was a midshipman; but if their lordships referred to p. 591, (*Ch. p.* 241.) they would find his explanation of that statement. His examination was as follows:—

"Were you rated a midshipman on board the Poictiers?—I was.

"How long?—I do not rightly know how long: I suppose during the time I was there."

He was then asked—

"Do you mean that you entered as a youngster to learn your duty, or did you go upon the quarter-deck of that ship as a positively effective midshipman?—I was not a very youngster; I did not go upon the quarter-deck for some time, but I understood I was to be a midshipman.

"Are you positively sure that from the time you joined the Poictiers you were rated midshipman?—I am not certain whether I was rated at the time or not; I was rated at the time I left."

From this it will be seen that Carrington had fully explained his former statement.

The Earl of Liverpool.—Did Carrington understand that he was rated a midshipman before Sir John Beresford left the ship?

This question was objected to, and another was put.

Did you so act towards Carrington, or Carrington towards you, that Carrington could have been led to think he was a midshipman?

Mr. Brougham had no objection to this question except that it was no evidence. He should be glad to know what part of Carrington's examination had any foundation for such a question. It was, if he rightly understood his lordship, whether Carrington was ever led to understand that he was to be a midshipman. Now Carrington had stated that he did not know how long he had been rated a midshipman.

The Lord-Chancellor.—He had in his evidence twice said he was a midshipman; and though he had finally sworn what Mr. Brougham had stated, the whole of his evidence must be looked at together when the effect was to be considered.

The Lord Chancellor.—Did Carrington, while he was on board the Poictiers, ever act as a midshipman?—He never did. I should wish, in justice to Carrington, to answer the question, whether he was ever led to believe that he was hereafter to be a midshipman; he never was led to expect that from me. I am about to give my opinion, perhaps it is not evidence. (Cries of Order, order.)

Mr. Brougham begged that the witness might not be interrupted in his answer.

Earl Grey.—As the question related to a matter of opinion, the answer would be evidence. Sir John Beresford was merely desired to say whether he understood that Carrington had been led to expect that he would be a midshipman.

Mr. Brougham said, the purport of the question was, whether Carrington had reason to understand that he was to be made a midshipman. Sir John Beresford had stated, not from him, but that he had from another. (Cries of No, no.) He was stating what he understood the witness was about to depose.

Earl Grey reminded their lordships that Sir John Beresford had said that he had something to add, which, in justice to Carrington, he was desirous of stating.

The Lord-Chancellor apprehended that, if what Sir John Beresford says be not evidence, it could not be allowed to stand on the minutes, nor to remain on their lordships' minds. It is not because Sir John Beresford says that what he was about to state is not evidence that we are to conclude it is not. If Sir John were on a naval court-martial, he would tell me that that was evidence which I conceived could not be received as such; and I hope I do not undervalue Sir John Beresford's

judgment when I say that he may be mistaken as to what is or is not evidence here.

(The witness resumed.)—I understand the noble lord's question to be, Have you any reason to believe that he was led to expect that from any body else? my answer was going to be, that the first lieutenant had so good an opinion of that man, I do not know what he might have held out to the man while I was absent; but I never held it out myself. I refer to Lieutenant Alcock, now Captain Alcock; I do not know that Lieutenant Alcock did.

The Earl of Lauderdale.—Did you ever tell Carrington that he was to be on the quarter-deck; and do you recollect Carrington replying, that he did not wish to be on the quarter-deck, for he had no friends or money to support him on the quarter-deck?—He never told me any such thing; and after I knew he was to be Sir William Gell's servant, it was very unlikely I should propose to him to be an officer in the service.

This never passed before you knew he was to be Sir William Gell's servant?—Never.

Carrington having informed this House that he did not go upon the quarter-deck for some time after he joined the Poictiers, was he ever on the quarter-deck of the Poictiers?—He never was on the quarter-deck, except when his duty as quarter-master led him there.

Earl Grey.—Did William Carrington apply to you at any time after he had left the Poictiers, respecting his pay?—He did.

Do you recollect what passed between you and him upon that subject?—I think it was four or five years afterwards; I met him in the street, or he waited upon me; he said, I have not got my pay, captain; I said, I will get it for you; and I was the means of its being procured.

Did you give him a letter to a gentleman at Somerset House for that purpose?—I either gave him a letter, or went to Somerset House myself, I do not recollect which, but I know I got him his pay.

Do you remember, at any time previous to his discharge from the Poictiers, having any conversation with him respecting his wish to leave the service?—Yes, I remember rather reproaching him for quitting the service, and saying, "I was quite astonished he had quitted the service, particularly as he was so comfortably situated on board the ship;" I was displeased with his quitting the service; I did it to oblige Sir William Gell; I did not like so good a man quitting the service, and the reason he gave me was, that he was pressed into the service, that he never liked the sea, and was anxious to quit it.

The question related to any time previous to his quitting the Poictiers?—The answers he gave previously and afterwards were exactly the same.

There was nothing passed relative to his inability to support the expense of being on the quarter-deck?—Nothing.

Lord Colville.—Do you know that Carrington, whilst doing duty under your command on board the Poictiers, knew what his rating on the ship's books actually was at the time?

Mr. Brougham humbly submitted that, for this witness to be called on to depose what he knew of what the other witness knew, was not evidence, unless he was *asked* as to some fact which brought Carrington's knowledge within the witness's knowledge.

Lord Colville said, that he had put the question in consequence of Carrington's own evidence that he believed himself to have been rated as a midshipman on board the Poictiers, while under the command of Sir J. Beresford. He had, therefore, good reason to ask whether Carrington must not have been aware of his own rating; he thought he must have been. No man had a greater respect for the high legal talent of the counsel at the bar than himself, but he did hope that their lordships would not be of the same opinion with that learned gentleman. The learned counsel was not justified in saying the question was a droll one.

The Lord-Chancellor said, that it was not for their lordships to discourage any objections which might be urged by the counsel for the Queen upon legal grounds. At the same time he thought that the proper question to introduce the one which had been propounded would be "whether the witness knew whether Carrington did or did not know how he was rated."

Lord Colville.—Do you know, from any fact or circumstance, within your own knowledge, that Carrington did know how he was rated?—Every man and officer in the ship knew how they were rated, to the best of my knowledge and belief; I never hid the rating from any of them; but with six hundred people in the ship it is impossible I can recollect the rating of every man ten years ago; but I believe he knew it.

Are you certain that Carrington did not know he was rated quarter-master?—I should think he knew it, as he always did his duty as quarter-master; but he and I never had any conversation upon that subject.

Lord Combermere.—Do you know whether Carrington ever messed with the midshipmen?—He never did.

The Earl of Winchelsea.—Was the pay which you state you obtained for Carrington some time after he was discharged, either by personal application at Somerset House, or by letter the pay of a midshipman, or the pay of a quarter-master?—I believe both; the pay of the midshipman's part of it could only have been a few days, because he was discharged into a ship to get his pay as a midshipman; therefore for those two or three days he must have been paid; but the Navy-office books can best state this.

The Lord-Chancellor.—According to the course and practice of the naval service, is not every man rated according to the duty he does on board the ship?—Generally speaking.

The Duke of Clarence.—During the continuance of William Carrington on board the Poictiers, was he on any occasion particularly recommended to your notice by the first lieutenant?—Not that I know of; but he was a very great favourite of the first lieutenant's; being a very good man, and the first lieutenant was very loth to part with him.

Where was the Poictiers employed during the twelve months that he was on board that ship?—The first part of her service we com-

manded at the blockade at Brest, then at Lisbon, then in the North Seas.

Did Carrington come on board with a draft of men, or was he received on board on the ship's being first commissioned?—As far as my memory charges me, with a draft of men from the Majestic; I think there were six or eight of them.

During the continuance of Carrington on board the Poictiers, was the ship in course of payment?—I cannot say positively, but I think she was.

The ship's books will prove the fact?—Of course.

Earl Grey.—What was the name of your first lieutenant?—Lieutent Alcock, now a captain.

Where does he live?—Near Carmarthen, in South Wales, and a most able and excellent man he is.

The Duke of Clarence here moved that the ships' books of the Poictiers and the Thisbe should be produced before the House.

The Lord-Chancellor.—They are to be easily had, I suppose?

The Duke of Clarence.—Very easily had.

Lord Melville was of opinion that all the required facts might be easily known, as to what was the rating of any men on board those ships, by a return from the proper officer at the Navy-office. The books themselves would be in some quantity, and of considerable volume; but the proper officer could furnish, by way of extract, every necessary information. It was for their lordships, however, to decide whether they would have such a return, or the books of all the vessels the man might have ever served in.—The latter course was agreed to.

Earl Grey.—Do you know where Captain Jones, who was the acting captain at the time of his discharge, is?—I do not, but I know Captain Alcock's residence from being in the habit of corresponding with him; I had a letter from him about two months ago.

The Lord-Chancellor suggested that it would be well for some person, authorized by their lordships, to make a copy of those parts of the ships' books which had been adverted to.

Mr. Brougham said he only wished to ascertain whether the proposition extended to the production of documentary as well as parole evidence; was it meant to receive documentary evidence?

The Lord-Chancellor.—Their lordships will decide on that point, and your objections, Mr. Brougham, shall be then heard, if you have any.

Mr. Brougham was anxious to know their intention.

Earl Grey moved that the order of the House of the 21st of August last, relative to the attendance of wit-

nesses, be read; which being done, his lordship further moved that the present witness, Sir John Beresford, be discharged from further observance of that order, should now withdraw, and be allowed to leave London.—Agreed to.

Mr. Brougham trusted, in reference to the examination of Pomi on Saturday, that their lordships would allow him to state, that notwithstanding their lordships had appeared to be of opinion that they (the Queen's counsel) could not cross-examine him as to the bribe attempted to be given to him by one Riganti, if he would submit to be the agent of Vilmarcati, one of the Milan commission, although their lordships at the time seemed to object to the question intended to be propounded, her Majesty's counsel did not wave it altogether, but reserved it to a future time, in case they should be afterwards able to show other acts of the same kind; and in case (which he trusted that, for the sake of substantial justice and legal form, they would be successful in doing) they should be able to arrive at that necessary and indispensable fact, of who the party was, the real party, who was the prosecutor in this case; without which information, looking at the peculiar situation in which her Majesty stood, it did appear to him (Mr. Brougham) that it was morally and absolutely impossible for them to pursue any steps towards that pure and substantial justice which ought to be the object of every judicial proceeding.

The Lord-Chancellor said the witness (Pomi) had now been examined in chief, and also cross-examined. Whatever application might be afterwards made for permission to re-examine upon any point, the House must of course consider, and would be the best judges of.

Lord Calthorpe rose to express his great regret that the noble earl at the head of his Majesty's government did not take an earlier opportunity of saying distinctly who was the prosecutor in the present case It really did appear to him, that in the question now before the House—if they made it one of state, and in which the state was the aggrieved and complaining party—the crown, as the head of the state, and not the king, individually, was, in a legal and constitutional point of view, the prosecuting party. He could only account for his noble *friend's (Lord* Liverpool) not having stated at an *earlier day that* important fact, from the reliance of the

noble earl upon the effect to be produced by their lordships' experience of his own fairness and candour, which he had so conspicuously manifested throughout the whole of this business, and which had drawn from the noble earl's political opponents even the warmest and most liberal acknowledgment. A close attention to the noble earl's conduct had only the more confirmed his (Lord Calthorpe's) opinion of the necessity that existed for its being still more clearly and distinctly stated who the prosecuting party in this case was. It must be admitted on all hands that his noble friend had, by his own conduct at least, exemplified a distinction which he (Lord Calthorpe), for himself, confessed he thought clear and obvious, between the ministers of the crown as the head of the state, and the minister of the crown individually. If he was wrong in drawing this distinction, he should be most happy to be set right by those noble lords around him whose acquaintance with the constitution and political law must be so much greater than his own. To him (Lord Calthorpe), this distinction was sufficient and satisfactory: and certainly he thought it would have been desirable in order to have precluded all misunderstanding, to have stated the desired point much earlier. At the same time he must say, that he thought no parties in this case had so little reason to complain of that statement having been so long delayed as the learned counsel for her Majesty: for he thought that, if any advantage had been left on any side, as to refusing the knowledge of this particular, relative to the identity of what had been called an invisible, an impalpable, and an indefinable being; all that advantage had been with the learned counsel for her Majesty, who had certainly had the opportunity of taking the greatest advantages of that odium naturally attached to a secret committee, and particularly as that odium must be necessarily increased by the object of the committee having been a foreign one. This subject had been so repeatedly brought up, that he could not feel satisfied without just attempting to explain to the House what seemed to him the correct view of the case.

The Earl of Liverpool certainly felt called upon for some explanation, after the candid way in which this *matter* had been put to him, particularly by the noble lord *who* spoke last. He must express some surprise that *this subject*, if there really was any difficulty about it,

should not have been stated at the earliest stage of the proceeding, but should have been deferred to the present occasion. He himself had no difficulty in stating how he conceived the matter to stand; nor could he have any from the beginning. It might be difficult to make an analogy between a proceeding in their lordships' House, considered as a legislative proceeding, and proceedings in other courts as far as regarded a question of who was or who was not the prosecutor: but about this question, in the present case, however the nature of the proceeding might have been objected to, there had been from the beginning no mystery whatever. On the 7th of June, or thereabouts, he did lay on the table of that House, by his Majesty's command, as he then stated, certain papers relative to her Majesty's conduct as the Princess of Wales. The question being how these were to be disposed of, it was then also proposed by him that they should, in the first instance, be referred to a secret committee. Many noble lords objected to that proceeding, and contended, that the proper course would be for the executive government, or for himself in the situation which he occupied under that executive government, to introduce a bill upon his own responsibility, founded upon the subject matter of those papers. Those papers were referred to a secret committee of that House, and they made a report upon them, which was now open upon their lordships' table. The day after that report was brought in, he proceeded to lay upon the table, also, a bill; not a bill as of the secret committe, but as, undoubtedly, his own bill; as a bill (so far as, legislatively considered, he could be) for which he was himself responsible. Such was the real course of the proceeding: right or wrong, whichever that proceeding might be, was there any mystery about it? The House ordered the Queen to be furnished with a copy of the bill in question, and the Attorney-General was ordered by their lordships, at the same time, to appear at the bar of their House, in order to make good the charges contained in the preamble. Whatever might be contended for upon the principle of analogy in a case like this, he maintained the only and the proper course had been taken. Whether the secret committee had reported rightly or wrongly had nothing to do *with the matter* in dispute; if it had never existed at *all, even that matter* stood, as with respect to the present

point at issue, on precisely the same grounds. The bill might have been brought in on other principles; and in the way in which it had been produced, he repeated, there was no mystery whatever. He had already said, that, with respect to what might have taken place under the Milan commission, he had no objection that, at a proper time, the most thorough inquiry should be instituted into that subject. But he did not consider that those who formed it ought to be mixed with the present question more than they legally and necessarily were. With regard to the present bill, he said that it was introduced into that House by himself, in the firm belief that its preamble could be proved. Whether it would be or not would be for their lordships hereafter to consider: it would be for them, at a future time, to determine how far the accusations contained in the preamble were justified. Whatever their lordships' judgment might be, he was sure they would hold that there had been no mystery attempted to be kept up.

The Marquis of Lansdowne said, that the question which on Saturday it had been urged ought not to be asked, and was not to be answered, was now asked, and had been answered. After the explanation of the noble earl opposite (afforded with his usual candour), something like an answer had certainly been obtained. He agreed with the statement of that noble earl (Liverpool); and it had convinced him (the Marquis of Lansdowne) that in this proceeding throughout they were entertaining a bill which the House had been led to entertain at the suggestion of the noble earl, and of the King's ministers; and that the counsel at the bar appeared for the purpose of instituting such an examination as should certify to their lordships whether the bill ought to pass or not. So far the explanation was to be admitted: but if the House was placed in the situation of having for its own convenience, and with a view to the accuracy of its own determinations, thought proper to create a party —and to place that party at the bar—it behoved them to consider in what way that proceeding, so established, affected the interests of the individual who was the client of the counsel at their bar. When the noble earl opposite appeared to express some astonishment at the objection or difficulty which had been started not having been suggested before, he (the Marquis of Lansdowne) must beg leave to say, that to the best of his recolles-

tion and belief it had been repeatedly stated throughout the whole business. It had been stated in that House, and elsewhere, by the counsel at the bar; it had been reverted to in that House by noble lords and by the counsel at the bar; and had, in short, been reiterated in almost every stage of the proceeding. But since the noble earl (Liverpool) did express so much astonishment that the objection had been so lately produced, he would tell him that, admitting the fact, there was at any rate some reason for it. The very proceedings of the House itself, on Saturday, raised this question—namely, How, and how far, this creating and placing at their bar an unknown party, for the convenience of the House, affected the interests of the other party before them? The question had not been so raised before. What, then, was the nature of the proceeding of counsel at their bar on Saturday? To establish the fact of a conspiracy. To establish such a fact it was necessary to prove an agency. To prove an agent it was necessary to prove, in the first place, a party as a principal. It was impossible for any counsel, who knew how the law of the case stood, to bring home a fact of agency, without showing a principal. Concurring with the explanation given by the noble earl, who had described the bill as his own measure introduced by himself, and to become afterwards the measure of the House at large, or not, according to the event, he rose chiefly for the purpose of expressing an opinion, which he really felt it an omission of his duty not to have stated on Saturday, after Mr. Powell's examination at the bar was concluded. Agreeing, as he had said, in the sort of opinion expressed by the noble earl, that only confirmed the feeling he (the Marquis of Lansdowne) before entertained upon the subject which he was about to mention, and induced him, with the greatest confidence, to submit such opinion to the House—"that those letters from Colonel Brown to Mr. Powell, and from Mr. Powell to Colonel Brown—he meant their correspondence relative to the abstraction of a material witness in this case, when the evidence of that witness was required at the bar—were evidence which ought to be produced," considering the state of this proceeding, as instituted by the House, for its own convenience, with a view, not to any particular purpose, but to the ascertaining of truth. That was its sole object; he supposed it to have no other object, no principal or

party having any interest in the proceeding; because, in fact, no party existed as prosecutor, except that phantom, which, for the purpose of eliciting truth, their lordships had raised up; and which, in truth, was for their own convenience, but was not for the interests of truth. It was very certain that, in many ordinary cases, the convenience of parties in proceedings were to be preferred to the interests of truth; and such a course might be perfectly prudent. But here, when they considered the unsubstantial party which they had created and brought to their bar, no such interests were to be considered; the sole and real and important interests were those of truth. He had no hesitation in affirming that it was their lordships' duty to take care, lest, in advocating the interests of their own party, raised up by their own power and permission, they proceeded hastily or incautiously, while evidence for the actual and more materials interests of truth was strangely absent. Their lordships were bound, and should have felt it, as he conceived, due to themselves, and to the ends of substantial justice and of truth, to have called for the production of so much of that evidence to which he had adverted as was relative to the great irregularity (to give it no worse a name) of the abstraction of a material witness by Mr. Powell, who ought to have been compelled to produce it. When so much of that evidence as was relative to the affair of Restelli should be produced, he should take upon himself to call for the judgment of the House upon the matter, and to know how they stood in that respect. One word more, before he sat down. His noble friend (Lord Calthorpe) had taken a distinction upon a very material point, to which he (the Marquis of Lansdowne) could by no means subscribe. The noble lord had stated that he saw a distinction, in the conduct of the noble lord at the head of the treasury, as between a minister of the crown and a minister of the King. He (Lord Lansdowne) could not acquiesce in any such distinction; he knew of no such difference; he thought that the noble earl acted upon this, as upon all other occasions, as the minister of the crown; and as the minister of the crown their lordships knew him. Sure he was that he only did justice to the noble earl when he said that the noble earl would not submit to be considered as acting in any other capacity.

The Lord-Chancellor would repeat the substance of

one observation, in which he had been led to state what he had stated with respect to the abstraction of Restelli, and the difference between a present and a postponed examination. The same principle applied to the cross-examination of a witness who had been already examined in chief. His lordship then proceeded to point out to their lordships the disadvantage of delaying the cross-examination of the witness last at their lordships' bar, and wished that any discussion that was not instantly called for might be deferred till that was over. A noble marquis (Lansdowne) had said that the question which was put on Saturday had been put to-day. He (the Lord-Chancellor) differed from that noble lord: the question of Saturday he took to be a very different one, and the answer of to-day was by no means applicable to it. Why this point should have been pressed so often, or whether there should have been any delay of an answer, was a question upon which he would make no observation except this—that his professional experience very often furnished him with good reasons for delay. The fact was neither more nor less than this—that his Majesty was advised to lay certain papers before that House, and those who gave him that advice were responsible for it: those papers, being sent down, were referred to a secret committee. The committee made a report, and after that report the noble earl (Liverpool) thought proper to bring in a bill founded upon it. Now this he (the Lord-Chancellor) maintained was no prosecution; for neither was there any prosecutor, nor any petition presented against such measure. The noble earl was answerable to the country for bringing in that bill, as all those were who concurred in advising that course; and upon this statement he contended that he was justified in saying, here was no prosecution. What he wished their lordships to do was, to proceed forthwith with the cross-examination that had been deferred, and then any question arising upon it might be impartially discussed; and, in despite of all the world, he might say, he was sure that it would be impartially, determined.

Lord Calthorpe, in explanation, remarked, that what he meant to say was this:—He thought that the noble earl, in relying upon the acquiescence of the House in his delay of stating who the prosecutor in this case *really was, had rested* rather upon the weight of indivi-

dual and personal character than upon any influence with Parliament which government were usually supposed to exercise in such cases.

Earl Grey only wished to state his dissent from one part of the statement made by the noble earl (Liverpool), to whom he gave full credit for candour and openness. But he had asserted, that those of their lordships who had opposed the appointment of a secret committee had contended that a bill should be brought in upon the responsibility of ministers. What those noble lords, however, did contend for, was, not that a bill, but that a charge should be brought in upon the responsibility of ministers; and that ministers should not shelter themselves under the report of a secret committee. To the mode of proceeding by bill he (Earl Grey) had always had an invincible objection. With respect to the question immediately before their lordships, he thought that the noble earl opposite had made no answer whatever to the clear, and, he considered it, convincing statement of his noble friend (the Marquis of Lansdowne), as to the difficulty, if not inability, of the learned counsel to prove the conspiracy, arising out of the circumstance of their not being enabled to cross-examine the agent of the party to the fact. Where agency was to be proved, that agency it was rendered nearly impossible to trace, if it could not be also proved who was the principal in it. From what had passed he must assume that government were the principals: and, that being assumed, it was to be inferred that every person employed by government in this business was their agent. Hence it followed that Colonel Brown was an agent. He did not know whether they might consider Hanoverian ministers as agents, but Colonel Brown was clearly one. Well then—a question had been put with respect to the conduct of one Riganti, who had been sent by Colonel Brown for the purpose of procuring witnesses to go to Milan. When grounds were made to appear at their lordships' bar for the assertions that had been advanced by counsel with respect to bribery, he apprehended that he must consider the government as being the principal, Colonel Brown as their agent, and Riganti as employed by Brown. There was, at least, that degree of bribery proved, that they (their lordships) must know how far persons so empowered as Riganti appeared to have been had been enabled to corrupt and

tamper with witnesses, to the manifest perversion and destruction of all justice. It was now for their lordships to determine how far they would allow counsel to proceed with those questions to which objections had been started on Saturday. If those questions were not to be allowed to be put by counsel, he now gave notice that he should, after the examination and cross-examination were concluded, submit to their lordships the propriety and necessity of their being propounded, in order that the House might know every thing which had been done by Riganti ; and also because it was material to know every thing which had been done in this case by other persons acting under the commission. So convinced was he of the necessity of such questions being permitted, that he should certainly take the sense of the House upon the matter.

The Earl of Carnarvon considered that the subject now before the House was connected with a sort of collateral inquiry, which he agreed with his noble friend (Earl Grey) in thinking it was highly important to go into. In the circumstance related as occurring at Carlsruhe there was but one witness (Barbara Kress); she was sent for, it appeared, to Frankfort, to be examined by the Hanoverian minister, and afterwards sent to Hanover. It was clear that other persons had been employed in that witness's examination besides the Milan commission. Who were they? or were ministers responsible for them as well as the Milan agents?

The Earl of Liverpool said, although they were first examined at Hanover, they were re-examined by Mr. Cooke.

The Earl of Carnarvon resumed, and said that still it was clear the Hanoverian minister had acted in some part of this business. What were his acts, then? and who were responsible for them? How was the conduct of agents to be thoroughly sifted, unless it was known who those agents were, and by whom authorized? Perhaps it might appear that there were other parties at work not connected with the tribunal of the Milan commission. Were those parties under the control of ministers, or were they not? Were they included in that responsibility which ministers were ready to avow? It was idle to proceed in the cause unless this information were fairly and fully communicated. How else were they to *see their way* through a series of proceedings in

the collection of this evidence, in which both German diplomacy and German dexterity were mixed up in one confused mass? How else could it be known whether or no compulsion had been used by parties in that almost invisible empire? It was most material to know whether corruption could be traced in any of the proceedings of the parties who acted in these despotic states. It was most material to know whether, before the evidence was submitted to the Milan commission, it had undergone examination and garbling by the agent of any petty German despot, for whose acts no responsibility could be traced. These were the unexplained peculiarities of this so Germanized business. Let the ministers avow for whom they were responsible as ministers of the King of England. Did they mean also to say they were responsible for the ministers of the King of Hanover? If they did, perhaps it would be also necessary to know who were the responsible advisers of the Duke of Cornwall, or whether they might not have had any hand in procuring some of those horrible means which were as disgraceful as they were malignant. This information he thought absolutely necessary, because who could say whether they might not be called upon, before they came to vote on the bill, to sit in judgment upon the criminal advisers of this most shameful and miserable proceeding? It had been said, that when the evidence in this case were terminated, it would then become their lordships' duty to decide upon the question, whether or no the preamble of the bill was proved. They would then, it was said, have to decide upon the evidence, which, in his judgment, contained the silliest deposition that had ever found its way into a grave proceeding; they would then have to say whether the bill should be read a second time or not. He would not say that this would become a part of their duty—though strange enough had been that duty, as exercised by their lordships in this business, which bore no analogy to the ordinary judicial forms of the country—to its principles of justice, which seemed to have been long forgot—indeed, he might add, to common sense, as well as to the spirit and practice of the constitution. Their situation was, indeed, anomalous, and utterly at variance with all precedent. It was said, that when called upon to vote for the second reading of the bill, they might devise some means of modifying the terms of the preamble, and

designating the imputed offence in terms of less severity; that then they might call the act, perhaps, censurable, or change the force of its character. He would, however, plainly tell their lordships that they had no way of making the matter palatable; he feared the public ear had been long since turned away from their proceeding in this repulsive transaction. In any way in which they viewed going on with the bill they would only have to encounter new and more appalling obstacles. How could they vote the preamble of the bill proved, and then resort to a new measure of a different form? Such conduct would be a gross insult to the unfortunate woman against whom the bill was directed. That, indeed, would, on the part of their lordships, show a disposition

"To hint a fault, and hesitate dislike—
"Willing to wound, and yet afraid to strike."

He knew, indeed, that this course was suggested for the purpose of saving their consistency. How would voting all the charges proved, and yet abandoning the preamble of the bill, show their consistency? How would admitting the principle, and then recording a vote contrary to all justice and common sense, manifest their consistency? He implored them to avoid such consistency, and declared that the only proof of rational consistency they had it in their power to show was to abandon the course into which they had been betrayed, to confess their error, and alter their progress. His own opinion he had long since declared, and he had no objection to repeat it now—namely, that, whether the charges were proved or not, the bill never should have his concurrence. Entertaining this opinion throughout, he had objected to, and had condemned their mode of inquiry from the beginning. For what purpose, he had always said, pollute their ears, disgust the public, and disgrace their journals, with the detail of such gross and scandalous evidence? This, he repeated, was his opinion of the bill, and he had only to reiterate the necessity of their stopping before their situation became inextricable. Their responsibility was great, their situation critical; and he again implored of the House to pause before their situation became irremediable.

Lord Melville said he had a motion to make in consequence of what had fallen from a witness (Sir John Beresford) at their lordships' bar this day. It was, that

the proper officer from the Admiralty do attend the House with an authentic statement of the services of William Carrington, who was a quarter-master in the year 1811 on board his Majesty's ship Poictiers, on board that ship, and in any other in which he might have served. The noble lord observed that the ships' books would furnish the necessary information.

The question was not put on this motion; but it was agreed to.

Counsel were re-admitted, and *Filippo Pomi* was again called in, and cross-examined by the *Attorney-General*, through the interpretation of the *Marchese di Spineto*.

You have stated that you resided in a house at the Barona, is that house now called the Villa Bergami?—Yes, at present it is called the Villa Bergami.

How long has it been so called?—A little time ago.

How long ago?—After that Monfrini sold it, about three months ago.

Do you mean to swear that it was not called the Villa Bergami until three months ago from this time?—It was so called, even before then; Monfrini bought it, and after Monfrini sold it, it was called again the Villa Bergami; we always called it La Barona, and we then began to call it Villa Bergami, after that Bergami had bought it.

How long ago is it since you first called it the Villa Bergami?—He bought it in the year 1816.

After Bergami purchased it, did you continue to work there as a carpenter for Bergami?—I did.

Had you continued to work for Bergami at the villa down to the time of your leaving Italy?—When he was the master I worked for him; when other people have been the masters, I have worked for the other people.

When did you last see Bergami?—This I do not quite recollect; it must have been in the month of August, I believe.

Where did you see him?—At his house.

Did you see him any where else?—I have seen him in no other place, for I never went out of the house.

Did you see him the day you left the Villa Bergami?—I did not.

How long before did you see him?—I left the Villa Bergami on the 20th of September; I had seen him in August, but I do not know the day, I cannot mention the day.

Will you swear you did not see him in the month of September?—I cannot swear, it must have been the latter end of August, or the beginning of September; I cannot swear, I have not made a memorandum, and I cannot tell.

How long before you left the Villa Bergami was it that you saw Bergami upon your oath?—I left on the 20th of September, and I cannot tell whether it was the latter end of August, or the beginning of September, I do not know.

How many days before you left the Villa Bergami did you see him?—I do not know how many days.

Was it a week?—More than a week.

Was not Bergami living at the Villa Bergami at the time you left

it?—No, he had set out, he had gone away, and I do not know when he went away.

Who desired you to come over here as a witness?—No one; my own will.

Do you mean to swear, that you came voluntarily, without any application having been made to you for that purpose?—I came here by my own will, because I heard that the Advocate Codazzi was receiving witnesses, and I went to say that I had to say something in favour of that lady, who had done a great deal of good.

A doubt being suggested, whether this was the full import of the answer, the following question was put;

Did you say, that she had done a great deal of good, or that she had done you a great deal of good?—To me, and to all the people at the Barona; she has done me a great deal of good, and a great deal of good to all the people in general.

Do you mean to swear, that you went to Codazzi of your own accord, and that no application was made before that time to go to Codazzi?—Yes, I swear that before any tribunal.

Did any body apply to you to go to Codazzi before you went there?—No; I heard that Codazzi received depositions in favour of this lady, and I went to Codazzi willingly.

When was it you went to Codazzi?—It was on the 24th day of August.

Was Bergami then at the Villa Bergami?—He was not.

Was Bergami at Milan?

Mr. Denman.—How can he know when he says he did not see him?

The Attorney-General replied, that he might have seen him when he went to Milan.

Mr. Denman.—What! seen him at the Barona?

The Attorney-General.—No, but at Milan.

Do you know whether Bergami was at Milan at the time you went to Codazzi?—As far as I know, he was not there.

Did any person desire you to come here from Italy to be a witness?—There has been this Codazzi, who told me so and so, who told me this and this; if you have any deposition to make, you may go, because your deposition is good.

Were you examined by Codazzi?—Yes.

Was any body else present when you were examined?—No.

Codazzi having said to you that you might go, did you in consequence of that come here of your own accord?—Yes, because I told him, that if it had been a business which required me to go a hundred miles I would go willingly, because I would go *(volontariamente)*.

The interpreters being asked whether the whole of the answer of the witness had been given, they concurred in stating that the whole had been given.

After you were examined by Codazzi, and before you set out from Italy, did you see any other person on the subject of your coming over here as a witness?—Yes, I had seen another English advocate at Milan.

When?—The day after I saw Codazzi.

Who was with the *English* advocate when you saw him?—I have

been in his house, and I have seen only him; I went there by my own accord, as I did in regard to the advocate.

Did you see any other person besides the English advocate upon the subject of your coming here after you had seen Codazzi?—Not at that time.

At any time?—When he came one day to the Barona I saw him, the Advocate Codazzi, and another person.

Who was that other person?—I do not know that person.

Was he an Englishman or an Italian?—I believe he was a foreigner; I believe he was an Englishman; for I did not speak to him, I merely took him up stairs to show the house.

Do you know Vassali?—I do.

Did you see Vassali at any time before you set out from Italy?—Yes, I saw him.

When was it you saw him; how long before you set out from Italy?—It was in the month of August, but I do not know when; I I have not present the day.

Was it before or after you went to Codazzi?—It was after.

Did you come over to England by yourself, or in company with other persons?—I came over in company with the head master, Giarolini, and three other persons.

Where was it you saw Vassali; was it at the Villa Bergami, or at Milan?—I saw him at Milan.

Where?—Near to his house; I saw him when he was getting into the carriage.

Did you call at his house?—No, I have never been at his house.

Was that the only time you saw Vassali?—I had seen him many times; I had seen him in the year 1817, and the year 1818.

Besides that time at Milan, have you seen him on any other occasion, on the subject of your coming here as a witness?—I have seen him here; I do not know in what place; in this country, in London.

Did you pay your own expenses in coming here, as you state that you came voluntarily?—I did not.

Who paid them?—The head master paid all the expenses, for he paid for all.

Is Giarolini your head master, or who is your master?—Giarolini.

Is he your master when you live at the Villa Bergami?—He is.

What are you to be paid for coming here as a witness?—Here it is; when I went to the Advocate Codazzi, I told him, that if it was to be an affair of a little time, I had no objection to go; and I told him that even if I was to go for a hundred miles, I would go without any interest.

What are you to be paid for coming here?—As to the pay, I cannot tell, because when I told to the advocate I told him that, provided they gave something to my family, I for that lady (her Royal Highness) would go to the end of the world.

Do you mean to say, that you do not expect to be paid any thing for coming here, for your loss of time?—Hear me; if they will take care of my family I would have no expectation in regard to myself, provided they took care of my family; and I would go to any place.

What were they to give your family?—The sum is that they give a livre to my wife, and half a livre for each of my children, daughters.

Do you mean a livre a day?—Yes.

Do you swear that that is all you are to receive, or expect to re-

ceive for coming here?—This is for the assistance of my family; as to the rest, to myself, if they will give me something I will take it, if they do not give it to me, I have no claim, I do not expect it.

Will you swear you have made no agreement with any person for your own remuneration for coming here?—Yes, this I can swear to, because I have made no agreement whatever; but as there are some people who have some claims, so I can have also some claims.

Then you are to be understood to say you have some hopes of being remunerated for coming here?—I have told you I have no hope, for; for that lady (Her Royal Highness), on account of the benefits that she has done me, I would go to the end of the world.

You stated, when you were here last, that when Restelli came to the Villa Bergami, he came together with the son of the head master; what is the name of that person, the son of the head master, who came with Restelli to the Villa Bergami?—Antonio.

Antonio Giarolini?—Yes.

Is not Antonio Giarolini an architect, as his father is?—He is more clever than his father.

Did not young Giarolini, upon that occasion, take a plan of the house?—Yes, they made a little drawing or design.

Did not young Giarolini, upon that occasion, make the drawing or plan?—Yes, when Giarolini came to the Barona, with Demont and Restelli and other persons, there was Giarolini up stairs, and they made this drawing or plan.

Did young Giarolini go away with them, after they had made the plan?—No; the others went away in a carriage, and Giarolini and Restelli went out by another door; and when they were there, they began to leap for joy, and to congratulate each other.

You say you have lived at the Barona for so many years; do you remember when her Royal Highness was there with Bergami, any dances being given at the Villa Bergami?—Yes, I remember them.

Do you know a person of the name of Antongina?—He was the tenant of the parish, of the whole place.

What is the extent of the Villa Bergami and the land belonging to it?—I do not know exactly.

The question is not precisely, but about what extent?—It is an estate of a thousand pertica, all this house is about half a pertica.

How many acres?—How am I to know that; I cannot know it.

You have stated you know the person Antongina, has not he a great many daughters?—He has eighteen children between males and females.

Did his daughters use to be present at those balls?—They came one evening, when her Royal Highness had expressed a wish to see all that family coming from one father and one mother.

What other persons used to be present at those balls, do you know?—They were all people well brought up from their father, well brought up from their mother, well brought up; and when they were there, the father always was present for the good order.

The question does not refer to Antongina; but were there not many persons from the neighbourhood, of a low situation in life?—There were other girls, but they were all well brought up people.

The question is, in what situation of life were they, not whether they were well or ill brought up?—All gentlefolks.

Both male and female?—Yes; this Antongina, we should call him a gentleman, *and the others* that came were all gentlefolks.

Do you know a person of the name of Maria Galletti?—Perhaps she may have come there.

Who is Maria Galletti?—I do not know her positively.

Does not she keep the public house called the St. Christopher?—You must have mistaken the name; it is not Maria Galletti.

What is the name of the landlady of the St. Christopher?—Rosina.

How long has she lived there?—She has been landlady a long time.

Has she not been at those balls?—Yes, she came, but because she had been brought by those other girls; but she is a respectable woman, she is not a prostitute, *(Trappola.)*

Is she one of those persons whom you describe as the gentlefolks who used to frequent those balls?—Yes, she came, and came only once, this Rosina.

Is she one of the persons that you describe as gentlefolks, who came to the ball?—She was the mother of another girl who was used to go there; she was the mistress of this inn, called the St. Christopher.

Is there another inn at the Barona, besides the St. Christopher?—There is.

Who keeps that?—Bergami is the master.

Who keeps the house, who conducts it?—The innkeeper is there.

What is his name?—Giovanni Angelo Donnarini; it is now the son, but before it was the father, and he was called Antonio,

Did his wife and her sister use to go to those balls?—They came only once.

What is the wife's sister?—She has no sisters; Donnarini has married a woman who has no sisters, who was an only daughter.

Do you know a person of the name of Battista, who lives at the Barona, a blacksmith?—No, there is no Battista.

What is the blacksmith's name at the Barona?—Antonio Manni.

Were he and his family at those balls at any time?—No; first of all he has no daughters, and he has only three sons.

Was he at the balls, or either of his sons?—No, I never saw any of them.

You have stated that you are a carpenter; do you remember at any time having occasion to do any work to a door up stairs at the Barona?—Yes, to work; I have made all the doors, I have even worked at the house of the tenant.

Do you remember, upon one occasion, your going up stairs to mend a door at the Barona?—How am I to remember that? I went up stairs a hundred times, now to mend one thing, then to mend another.

Do you remember when you were mending a door up stairs seeing her Royal Highness any where?—No, in that time I have not seen her; I have seen her down stairs in the hall; up stairs, I have seen her in other places, but when I was mending a door I never saw her.

Did you ever see the Princess in any room up stairs?—I have seen her in her own room.

Was it at the time you were mending a door that you saw the Princess in her own room?—No, it was when I carried up stairs a chest of drawers, which had been put out of order.

Where was it you saw the Princess upon that occasion?—In her own room, when I was carrying that thing up stairs.

Was Bergami with her?—No, I have not seen him.

Did you not see Bergami any where upon that occasion?—No.

Will you swear you did not see Bergami upon that occasion, in the Princess's bed-room?—Yes, I can swear before God for this.

Did you at any other time see Bergami in the Princess's bed-room?—I never saw him there, never.

Have you never stated that you saw him and the Princess in her bed-room?—How can I tell such a thing, when I never saw him.

You are not asked whether you ever saw it, but whether you ever stated that you had seen the Princess and Bergami in a bed-room together?—I have told you that I know nothing at all of this affair.

Will you swear you have never said that you saw the Princess and Bergami together in her bed-room?—Yes, I can swear even before God, that I never saw them in her own room.

You are not asked whether you ever saw them, but whether you have ever said that you saw them?—I have said nothing of this business before; it was not me who went up stairs, for I have always had four or five men under me to work.

Have you not said, that you did go up stairs on one occasion with a chest of drawers?—I have said that I went once up stairs in her room, to mend this chest of drawers, because the drawers wanted mending.

Upon that occasion was it that you saw the Princess in her bed-room?—Yes.

Have you never said that upon that, or some other occasion, you saw the Princess and Bergami together in her bed-room?—How many times must I say the same thing; I have said, that I can swear that I never saw Bergami in the room of the Princess, in the bed-room of the Princess.

You are not asked whether you saw the Princess and Bergami, but whether you ever said you had seen the Princess and Bergami together in the bed room?—I never said, nor have I seen it.

Do you know the wife of the Baron Bergami?—I do.

Have you ever seen her at the Villa Bergami?—Yes, before I set out she was there.

Before you set out for England?—Yes.

Did you see the little Victorine at the Villa Bergami when you saw the wife there?—No, the little Victorine was not at home; she was at school.

Where was she at school, do you know?—I do not know the place.

You said, that many gentlefolks went to the ball of the Villa Bergami; state the names of any of the gentlefolks whom you have seen there?—I cannot mention them.

Can you mention any of the ladies?—I might mention Marianna Donnarini, I might mention Giuseppa Donnarini; and there may be other persons who, if they were before my eyes, I might recollect their names.

Who is Marianna Donnarini, and where does she live?—At the Barona.

Who is she; is she a lady living upon her fortune?—A girl well brought up, and the flower of gentlefolks.

Is she not the daughter of the man who keeps one of the inns at the Barona?—Yes, she is the daughter of Antonio.

Examined by the Lords.

Earl Grey.—Was any proposition made to you to give evidence against the Queen, and by whom?—No.

Did no person speak to you upon the subject of giving evidence against the Queen?—There is Restelli, as I mentioned the other day.

Any other person?—There was another person of the name of Riganti, who, when I went to his shop to buy snuff or something of the kind, told me———

The Attorney-General objected to the answer which the interpreter was translating.

Earl Grey conceived the interruption to be irregular. A question had been put, and an answer given; but, while the interpreter was translating it, he was interrupted by the learned gentleman. He thought it was the duty of the House and of the learned gentleman to hear the answer, and if it were then deemed illegal, it could be struck out.

The shorthand-writer read the question and the portion of the answer that had been given.

Earl Grey.—He was proceeding to state the nature of the conversation with Riganti when the interruption took place.

The Attorney-General would, for his own justification, call the recollection of their lordships to page 97 of the minutes, *(Ch. p. 99.)* where the same thing was done by his learned friend Mr. Denman, with respect to one of the witnesses for the bill. His learned friend had interrupted the witness in his answer when he came to the words "I imagine," observing that the witness's "imagination" could not be received in evidence. The objection was held to be a good one, and the rest of the answer was not taken down. The Lord-Chancellor stated, on that occasion, that the witness might be allowed to give so much of his answer as could be legally heard; but that, when he was about to state his "imagination" of any thing, it was proper to interrupt him. His objection was of the same description. That which the witness had stated, as to Riganti's having applied to him to give evidence, might be received as evidence; but he contended that any conversation between him and Riganti on that occasion could not be given in evidence. He knew that it could be afterwards struck out; but he opposed it at the moment, conceiving, as he did, that ultimately it could not be received as evidence. He did not object from any fear of the answer that might be given to the question, but because conversation with another person could not be evidence.

The Lord-Chancellor directed the preceding question and answer to be read, which was done.

The Attorney-General.—My objection is, that any evidence between the witness and another person, not a party here, cannot be received.

The Lord-Chancellor.—Mr. Solicitor, do you wish to be heard?

The Solicitor-General said, his objection was founded on what was given in evidence by Restelli on a former occasion. Restelli stated at that time that he had received a message, at the Villa Bergami, from Vimercati, through the means of Riganti. He therefore thought that Riganti was a stranger to this inquiry, and a conversation with him could not be received in evidence here. He understood that he and his learned friends, as counsel at the bar for this bill, were bound to put any objections that might strike them as proper to any particular questions. After having stated those objections, he conceived that their duty was discharged, and he was quite indifferent as to the decision that might ultimately take place.

The Attorney-General.—In the instance he had adverted to, a question was put as to the imagination of the witness, and it was decided that such a question could not stand. He thought the present was not a legal question, and therefore he had taken the liberty of stating his objection at their lordships' bar.

The Lord-Chancellor apprehended that, if the House had come to a wrong and hasty decision at one time, it was right ask a question, for the purpose of bringing the subject again under the consideration of their lordships; and he would call on the House to state anew the opinion that was entertained on the question. He was now, in the first place, about to do that which was usual, namely, to call on the counsel in support of the question to argue its propriety if they thought it necessary.

Mr. Brougham said, he was perfectly satisfied to leave the objection made by his learned friends (and which he considered to be a most unfounded one) to the decision of their lordships. He would, however, briefly state his view of the subject. The propriety of the question rested, in a considerable degree, on that part of the evidence of Restelli which was to be found in p. 410. *(Ch. p. 439.)* That evidence he had before adverted to, and, as it disclosed a particular species of information, he gave their lordships' notice, in the beginning of the case for the defence, that it had better be discussed afterwards. He now submitted to their lordships, that, in the present state of the case, sufficient matter was contained in p. 410, *(Ch. p. 439.)* to authorize them to allow this question *to be asked.* It there appeared, from the evidence of

the agent, Restelli, (a man whose agency was not now denied,) that Riganti came to him, desiring him to go to the advocate Vilmarcati, a known and avowed agent of the commission. Restelli said he did go to the advocate the day after Riganti came to him, in consequence of Riganti's so calling, What did the advocate do, after Restell had been apprized, through the agency of Riganti, that he wished to see him? He examined Restelli. It was demanded of Restelli—"Did the advocate ask you any questions?" He answered that he did. "How soon after did you go before the Milan commissioners?—A day or two after, I believe. Did you tell the same story as you have told to their lordships on this day?—I did. Was your deposition taken in writing?—It was. Who were present?—Three English gentlemen, and two Italian amanuenses." This, then, fixed Riganti as the agent of the Milan commission. It was proved in this way:—Riganti went to Restelli, not merely as a messenger, but as an agent, because he asked Restelli to go before the advocate Vimercati, which he did: he was by him examined; and he afterwards went before the commissioners. The very day after the communication was made by Riganti, Restelli went to the advocate Vimercati, and the day following he went before the Milan commission. Now this he would maintain, to be a sufficient proof of agency on the part of Riganti—a sufficient proof that he was acting on behalf of the Milan commission—to let in the question proposed to their lordships. With great submission he would call their lordships' attention to the absolute necessity which existed for opening the door to such a question as this. If he could be able to prove that witness after witness had been applied to by agent after agent, by saying "If you will come and swear certain facts against the Princess of Wales, you shall have so much reward"—if he could prove that an offer was made to this witness in these terms—"If you will say that you saw Bergami put his hands up the Princess's petticoats, you shall have such a reward"—if he could show that, with respect to other transactions, recourse was had to the same means, that individuals were offered rewards if they would swear to those falsehoods—to charges they had never heard of, until they heard them from the mouths of those panders of infamous evidence—if he could prove this, though he might not precisely connect each of those panders with his employers, the Milan com-

missioners!—if he could substantiate matter so important, he would assume, placed, as their lordships were, in a most extraordinary situation, as a house of legislature, with a bill of pains and penalties before them, that no man could deny but it would have very great influence in enabling them to form an opinion whether the bill should pass or not. Was there a noble lord sitting on the bill whose opinion would not be most materially affected by the last question?—nay, he would say, whose mind must not be decided to throw out the bill, if a system of going about to bribe witnesses to tell those odious falsehoods against her Majesty the Queen should be made out by legal evidence, although it was not strictly made out to be the act of the Milan commissioners, or of his Majesty's ministers, who were his opponents now, and who were to be his judges hereafter? Could the Earl of Liverpool, or the Earl of Harrowby, and the other advocates of the bill, whom he only mentioned by name because they were his opponents—could they, or could any man, say that it was not important that those panders for false, foul, and filthy evidence, should be exposed? They might be told, that the Milan commission was not now sitting. That was true; but Col. Brown was there, and who could tell what he was doing. Would not the evidence with respect to the persons employed to procure evidence, and executing their task in so base a way—would it not have a powerful effect in inducing their lordships not to pass the bill? It must, for an obvious reason, have that effect; for it was clear that those people had been going about offering to bribe witnesses with money of others, not with their own. Did Riganti go about offering his own money? Certainly not. What reason had *he* to wish that witnesses should swear against the Princess? He had none; and if so, he must have been offering the money of others to obtain evidence. What then must be the conclusion if they saw him employed in that manner? The evidence given by several of the witnesses was, *in pari materia*, in a similar tone, involving the same fact, and showing how the thing had been got up. It proved that a conspiracy existed, and against whom—namely, the Queen, though it did not show *by* whom it was supported and encouraged. In short, the question now about to be decided was of the utmost importance to this case. They, her *Majesty's counsel*, charged a conspiracy against the

Queen; and if they showed this by the agency of particular persons, although they could not bring it home to the noble lords who were the adversaries of the Queen, and who were also set up as her judges in this case, still he could not but think that it would influence the opinion of every man in that House and out of that House as to the propriety of passing the bill; and, therefore, he conceived it was fit matter for examination.

Dr. Lushington requested leave to say a few words in support of the question that had been put. It would not have been asked if it had not been for what occurred on Saturday evening last; and looking at the manner in which the question was then disposed of, and what had just happened, he was in doubt whether he had not entirely mistaken the rules of evidence on this occasion. He did not mean to contend that this man, Riganti, was a general agent of the Milan commission, but that he was employed as an agent for particular purposes—that he was employed to procure witnesses for the support of those charges—and he conceived their lordships ought to hear any evidence that could be produced on this occasion with respect to any illegal means that might have been resorted to for bringing forward witnesses in support of the bill. Now the question that had been put, as it appeared to him, came strictly within the rule that had been laid down, because it went to procure for their lordships' information, an account of the manner in which Riganti conducted himself when obeying the orders of the Milan commission; and if it turned out that, in obeying those orders, he attempted by sums of money—by bribery and corruption—to procure witnesses, then, on every principle of justice, those acts should be detailed by evidence before their lordships. What would be said if such evidence were not allowed to be given? It would be said that the interests of justice were entirely defeated. The Milan commission employed Riganti to go and collect witnesses, and he did so by bribery and corruption, by every bad and objectionable means. The consequence was, that witnesses were brought to their lordships' bar to perjure themselves. Would their lordships decide on such evidence? Was it not proved, by a particular witness, that he was offered a bribe? Did not their lordships see, that, in those countries where the witnesses lived, bribes were to be had, and fortunes to be made, provided individuals went before the Milan commission, and gave evidence

against her Majesty? Not to hear witnesses examined on these points struck at the fountain of justice, and overturned the rules of evidence. When those persons went before the commission they gave their depositions, and they were sworn to those depositions before that commission; though on what authority they were so sworn, he protested he did not know. He knew not by what power it was that a commission could be sent forth from this country to act under a foreign government, and having at the same time authority to administer oaths to witnesses, for the purpose of afterwards bringing them to England. When they came here with their depositions—when they were brought to the bar of that House—could it be doubted whether or not their lordships should take these circumstances into their serious consideration? Could it be said that the government who brought forward this bill were not responsible for every act of the Milan commission, and for every act done by every subordinate of that commission? Could it be seriously said that they would not receive the evidence on the points he had adverted to? And why? Because it was not deemed admissible evidence. But how stood the fact? The Milan commission gave Riganti power to act in their behalf: it was in evidence that he was employed to procure witnesses, and they adopted his acts by examining the witnesses he brought. Therefore he hoped their lordships would be of opinion that it was absolutely essential to the attainment of justice, that this evidence should be received, in order that the circumstances might be probed to the utmost; and then, he trusted, her Majesty's counsel would be able to show their lordships, that, throughout the whole of the scene where those criminal acts were stated to have taken place, there had been agents, almost without number, travelling through those countries, seeking out persons whom they supposed, by possibility, might have some knowledge of transactions relating to the Queen, and offering to them bribes, and seducing individuals, whose situations rendered them most likely to be induced to perjure themselves before the commissioners, and afterwards to come forward to support that perjury here.

The Attorney-General was sure their lordships would pardon him for offering a short reply to the representations of his learned friends who had just argued this question; and he must confess that he was somewhat astonished at the bold assertions made by those learned

gentlemen—assertions which the evidence entirely negatived: He almost doubted whether his learned friend who last addressed their lordships, had made himself acquainted with the evidence; because, if he had, he must have known that the administration of oaths by the Milan commission, so far from being proved by evidence, was absolutely negatived. Restelli stated to their lordships, that no oath was administered to him; and, as far as he (the Attorney-General) recollected, every witness who was asked the question denied the fact. He believed that no oath was administered by the commission to the witnesses at the time they made their depositions.

Dr. Lushington here interrupted the learned gentleman. He would at once refer him to page 227 of the minutes; *(Ch. p.* 286.) where it was stated by Raggazoni, that he was sworn before the commission. The evidence on this point was as follows:—

"When you were examined at Milan, was what you said taken down in writing?—It was taken in writing.

"Did you sign it?—I did.

"Were you sworn?—Yes, I took an oath at Milan.

"Who swore you?—The Advocate Vimercati.

"In what form?—He told me, 'Are you ready to swear upon the truth?' and I said 'Yes, the truth.'

"Were you sworn upon the Gospels, or in what manner? He told me 'You are then ready to come and swear to the truth?' I said 'Yes, I am ready to come and swear to the truth.'

"Were you sworn upon the cross at that time?—Yes, I took the oath upon the cross; I took the cross which I carry about me, and I kissed it myself before Vimercati."

The Attorney-General.—Now, he would contend that the witness was not sworn to his evidence by Vimercati. (This observation gave rise to loud and general expressions of surprise in the House.)

The Lord-Chancellor.—My lords, I do not believe that there is a learned counsel who would not leave any court in Westminster-hall, if he were treated thus.

The Attorney-General resumed.—He wanted to bring the fact before their lordships, and to call on them to look minutely to the evidence as it stood on the minutes. Restelli denied expressly that he had been sworn. If they examined the evidence of Raggazoni by itself, and, still more, if they examined it in connexion with the evidence of other witnesses, the matter would at once be explained. The question put was, "Are you ready, if required, to swear to the truth of this deposition?" he answered, "Yes;" and he then took out the cross, and

kissed it himself. But this was no proof that any oath was administered by Vimercati. On the contrary, their lordships would find that the question relative to the administration of an oath was repeatedly put in the course of the evidence, and as repeatedly negatived. He would again state to their lordships, with perfect confidence, that if they examined the evidence fairly and candidly, they would see, that though the witnesses were asked, were they ready to swear to their depositions? yet no oath was put to them. They were all asked if they were ready to swear; and they all answered that they were, if called on to depose upon oath. In saying this, he stood in their lordships' judgment; and, of course, his assertion would go for nothing, if it were not borne out by evidence: but, on examining the evidence, it would be found that no oath was administered to the witnesses by the commission; but, as he had before said, they merely stated what they knew, or had seen connected with the subject under investigation, and they were asked whether, if required, they were willing to be examined on oath. This was all that took place, and no oath was administered. Why did he state this? Because, if assertions were confidently made on the other side (assertions which had no more to do with the question than the most remote subject that could be discussed), they must be met by a reference to facts. What was the question they were now called on to decide? It was merely this—whether or not it could be inferred, from the evidence given by Restelli, that there was that sort of agency, on the part of Riganti, which his learned friends themselves admitted must be proved before a particular line of examination could be pursued. He denied that any evidence had been given that could lead to such a conclusion. It was asserted, on the other side, that Restelli had offered money. It was not necessary to go into that point now: it might, hereafter, be adduced in contradiction to what that individual had sworn; but he could not allow the witness, who had stated that Restelli offered him money, to go further, and detail a conversation he had with another person. It was now stated that Riganti was the agent of the Milan commission, and, therefore, that evidence respecting him ought to be received. But where was the proof of this agency? All that was said by Restelli was, that a man of the name of Riganti, a to*bacconist, came to tell* him that the Advocate Vimercati

wanted to see him; and his evidence then went on thus:—

"Was any body with the advocate when you first went?—There was not.

"Did the advocate then take your deposition?—He did not.

"Did he ask you any questions about what you knew?—He did.

"How soon after that did you go before the commissioners?—I believe a day or two after.

"How many persons did you find assembled there?—There was the advocate, three English gentlemen, and two Italian amanuenses.

"Did you then tell the same story you have told to-day?—I did.

"Was it taken down in writing?—It was.

"Were you sworn to the truth of it?—They did not swear me, but they told me that I should be obliged to swear to the truth before a tribunal; I said I would.

"Did you then take out your own cross and kiss it?—I did not. I was not then to take an oath; he only told me that I should be obliged to swear, if the occasion should require, before a tribunal; and I said that I would."

All that they were told, therefore, was, that Riganti came to this witness from Vimercati, and from that his learned friends argued it must be concluded at once that Riganti was the authorized agent of those persons who formed the Milan commission; that he did not go to Restelli only, but that he was an authorized agent, appointed specially to collect evidence. If on so slender a ground they let in evidence of this nature, their lordships could not tell where they were going, or where they were to stop, on such an occasion. They would, in fact, be trying collateral issues, instead of being guided by proper evidence—that which alone they ought to look to—namely, the truth or falsehood of the preamble of this bill. They were asked to proceed in a different course; to admit evidence, which would be received in no court of justice whatsoever, even in a civil case. It was clear, *ex concessis*, on the other side, that this evidence could not be admitted, unless proof were given of the actual agency of Riganti. No such evidence had been given, or was now offered. When that agency was established, it would be time enough to see whether, even then, such evidence as that contended for could be received. At present it was sufficient to inquire whether there was any evidence of such agency. Could it be admitted that, because a servant carried his message, his principal became accountable for all his acts? Undoubtedly not. Here nothing appeared but that this Riganti told Restelli to go to the advocate—and that he went in consequence. But, admitting this, was such a circumstance to let in all his acts, and

all his statements, as evidence? He interposed this objection. It would be for their lordships to decide whether they would be guided by the rules they had laid down themselves,—whether they would be guided by the rules that obtained in courts of law. He conceived that the decision their lordships had arrived at on Saturday, and which appeared so clear that it occasioned little argument, supported the answer given by him and his learned friend to the other side. It was so clear, that, after refusing the question which was then put, he thought it was impossible for their lordships to admit the question which was contended for on the present occasion. There was no more reason, in his opinion, for letting in the confessions and declarations of Riganti, than there was for admitting those of any other individual who had chanced to be named in the course of these proceedings.

The Lord-Chancellor thought it was his duty to state, that, according to any understanding he had of the principles and law of evidence, these declarations could not, in the present stage of this proceeding, be admitted; and, if any noble lord could entertain an opinion, that, according to the course and practice of the courts below, the view which he (the Lord-Chancellor) took of the subject could be so far contradicted as to have it shown that the practice of those courts would let in such evidence, it would be competent to that noble lord to have the advice of the learned judges on the question, and he would feel obliged to the noble lord who called for that opinion, in order that he might thereby correct his own. So far from his mind being satisfied with what passed on Saturday last, he did assure the noble earl (Grey), that, recollecting what had occurred on that occasion, he had since paid much attention to the subject. There was a great deal of good sense in a few words of bad Latin, "Qui pauca considerat facile errat;" and he had not failed, since that time, to put to himself several questions on the subject—to reconsider it, in fact, as it had undergone so little discussion. In the first place, he would call back their lordships' recollection with respect to what passed as to the witness Restelli. He stood on their minutes as having given particular evidence—and witnesses were called to their bar, (and, he thought, most properly and justly called to their bar, in the absence of Restelli, considering that absence *not to have been* occasioned by the party opposed to the *bill,) in order to* state declarations that had been made

relative to that person, with a view to his contradiction; and the witness was asked a question, whether Riganti had ever made any declaration to him? This, taking it in any point of view their lordships pleased, could not be admitted, under the present circumstances of the case. Here he hoped he should not be told in any future stage of this question that there were any noble lords sitting in that House who could have any anxiety with respect to personal convenience. He protested against it as the most unjust thing that could be imagined, as a thing that could not be tolerated. He would put what he was now about to state in a purely hypothetical manner. He would suppose, hypothetically, that the government might be called, if they pleased to give them the name (as odious a name as could be given to them)—the prosecutors on this occasion; that the Milan commission were, as they had been called the other day, a branch of a joint-stock company: assuming this to be true, he would suppose that the government, or the Milan commission, or both, having been distinctly proved to be the prosecutors in this business, had employed certain agents, whose acts were to be made evidence in this proceeding: it could not be done unless proof were given of that agency; and, in this case, no proof was given that Riganti was an agent to any body. Now, before the act of an agent could be given in evidence, he was justified in saying that the agency must be established. There were various ways to establish the fact of agency. It might be established by the admission of the principal; it might be established by the agent himself making proof of the fact; and it might be established by the evidence of other persons, with respect to the acts of the person represented to be the agent. The law allowed the agent to prove it himself, which was a better mode than by having recourse to the evidence of third persons. The agent might, therefore, be called to prove what came within his own knowledge. This was not attempted here. Was there any admission of the principals in this case? Certainly not. Suppose the acts of Riganti did not prove him an agent, had he been called himself to show his agency? He had not. Was there, then, any proof given by other persons? He knew it might be said—and, in all probability, it would be said—that it was placing individuals under great difficulties if they *were* asked to call persons to prove an agency, who *might* also prove other circumstances which the party by

whom they were called did not wish to give in evidence. Supposing it to be so, were the rules of law, therefore, to be broken down, in order to remedy the inconvenience? The third species of proof was from acts done by the person alleged to have acted in the character of agent. Now, if their lordships would look to the evidence, pages 410, 411, 412, (*Ch.p.* 439—40.) they would see that there were no acts given in evidence which proved agency:

"Who sought you?—The first time, a man of the name of Riganti came to tell me to go to the advocate."

Was it, then, to be contended, that because Restelli, in consequence of a message he received by Riganti, went to the Milan commission to be examined—was it therefore to be contended that Riganti was agent to the Milan commission? Because one man was sent to call another, agency was to be inferred! He could only say that, in the course of his experience, such a proposition he had never heard. The counsel for her Majesty were bound to call Riganti, then, if they meant to proceed upon his acts. His lordship did not know how he should act, if called upon to give his opinion judicially upon the obligation to tell where Riganti was to be found; but if he were asked where he was, and knew where he was, he would have told it at once. If their lordships should, without calling Riganti, suffer counsel to give evidence of what Riganti had said, where would they stop? If they called Riganti and proved agency, then they might proceed to hear evidence of his sayings and acts. But, otherwise, the consequences might be monstrous. There might be conspiracy on one side as well as on the other. He did not mean to throw out any insinuation. Whatever the result of this inquiry might be, he would never forgive himself if he threw out any thing to fix an imputation during the inquiry. But there might be conspiracy against conspiracy: If then, 19 or 20 persons should come before them and swear that they had been offered money, how could their lordships say on which side those who offered money were employed? They must prove a great deal to prove an agency by the acts done. This was not proved in the present instance; therefore the agent must be called, whatever might be the consequence of calling him, if his acts were to be given in evidence. This was his view of the present objection. It would be a great relief to him if any noble lord would draw up a question to be sub*mitted to the judges* respecting this point. He felt al-

ways great reliance on the experience and wisdom of the judges, and the sanction of their authority was a great relief to him in every case of legal difficulty.

Earl Grey said that the noble and learned lord had correctly stated, that when he (Lord Grey) proposed that this question should be put to the witness, he did it in consideration of the decision of their lordships on this point on Saturday last, not believing that that decision was right in the peculiar circumstances of this case. He had been desirous that the Attorney-General should state such objections as might occur to him, that their lordships might deliberately consider the subject, with the manner in which the Attorney-General had supported the objection. The objection was ably made by the Attorney-General, and ably supported by the noble and learned lord. He might perhaps expose himself to the imputation of pertinacity, when he still persisted in entertaining the opinion that the question ought to be put. The statement of the noble and learned lord as to the practice in the courts below was, no doubt, quite correct; and if the point were submitted to the learned judges, their decision would be such as the noble and learned lord had stated, and therefore he had no wish to refer the point to them. He would admit that, according to strict and technical rules of law in other courts, the question could not be asked. But the question was here, whether their lordships were bound by those strict and technical rules, or whether the peculiar circumstances in which they were placed did not require some relaxation of those rules, and authorize them to do what in other circumstances would be irregular. He had admitted before, that it was desirable that the House should restrain itself as much as it was possible by the rules of law; but the House was not to be restrained from a departure from those rules when circumstances justified such a departure. The question was, then, whether they were here so situated as to be authorized to depart from strict rules of law? What was their situation? It was admitted on all hands that the general agency of Riganti was not so proved as to authorize questions to be put respecting his acts and sayings. But he begged their lordships to recollect that this was a bill of pains and penalties—a bill of pains and penalties proposed by his Majesty's government—a bill of pains and penalties supported by evidence collected by a commission which had been appointed by the government. It was a severe

and anomalous measure to deprive the Queen of her rights—to degrade her from her dignities—to remove her from the rank and station which belonged to her. Whatever in course of such a proceeding appeared at all suspicious or tainted, ought to be rejected. He agreed with a noble lord, that in such a proceeding they were bound to see that the evidence should be not only unsuspicious but unsuspected. It was proved by Restelli that Riganti had been employed to bring witnesses to Milan. Restelli said Riganti came to him to desire him to go to Milan to give his deposition, and he in consequence went. Where got Riganti this instruction to seek for witnesses, and to get them to give evidence? When their lordships found this fact established, and when they found that he went to a witness and stated, "If you will give particular testimony, you will get a great reward;" who could deny but this must affect the bill before them, and influence their decision? He admitted that a general agency was not proved in such a manner as would authorize the calling of evidence to the acts of the agent in the courts below; but such acts were proved on his part under the Milan commission to collect witnesses and to suborn testimony, as made it the duty of their lordships to go into the inquiry, in order to see that they were not imposed on by corrupt and suborned evidences. These were the general views on which he thought it justifiable to depart, in such a case as the present, from the strict rules of law in the courts below; for, thank God, no similar cases were to be found in those courts. He felt great reluctance to press what had been opposed by the noble and learned lord; but by whomsoever the witness had been acted on, and by whatever means evidence was corrupted, those agents, and those means, he felt it his duty to require to be fairly exposed to their lordships. Therefore he pressed his opinion, if any noble lord supported that opinion, for he knew not whether any other lord entertained the same views of this point. He had no interest one way or other. He only wished the case to be laid fairly and completely before the public, that no decision might rest on suspected, contaminated, and corrupt evidence, and that no unexamined and unascertained imputation might rest upon the proceedings.

The Earl of Liverpool said, he understood the noble lord to admit, that if the question arose respecting a

conspiracy in the courts below, he did not dispute the law of his noble and learned friend, but to contend, that upon the specialty of the case, upon the extraordinary circumstances of this bill, their lordships ought to be induced to depart from the course which they had hitherto adhered to, and which was always adhered to in the courts below. Now this appeared to him a most awkward period to adopt a proposition of this nature, when hitherto they had governed all their proceedings by the understood general laws of evidence. He admitted that there was no absolute obligation to adhere to those laws; it might be often necessary to open a wider door for evidence than those laws allowed. As their legislative functions were unlimitable, it was impossible to say in what situation they might find themselves to which the ordinary rules of law could not apply. The necessity of departing from those rules was to be deprecated, and therefore their lordships had imposed on themselves the shackles of law. He put it therefore to the House, whether, in this part of the case, they would suffer questions to be put which might lead to an inquiry that would be interminable, or at least most extensive. It was not this particular question only that they would be called on to allow. If their lordships departed here from their usual course, they must depart from it on every important inquiry that could be suggested. The noble earl had said that they were not to be bound by the nice and technical rules of law. But this was not a nice and technical objection, as many objections, he admitted, were, but was founded on the eternal principles of justice itself. It was this—that where the principal was to be affected by the acts of the agent, there ought to be the clearest evidence of agency. Speaking generally—for he now did not allude to this particular case, but speaking generally—nothing was easier than for one side to employ as agents for the other, persons who should commit various acts of bribery and corruption, and then to bring forward those acts as done by the agents of the adverse party. Let their lordships only see what monstrous injustice would thus be done. He could not conceive any principle more intelligible to common sense, and that ought to be more intelligible to every professional mind, than that the clearest and most intelligible evidence ought to be given that individuals are agents, before their acts can be received as evidence

against their principals. He would desire their lordships to look at the evidence for proof of any agency on the part of Riganti. They would find no more than this—Vimercati desired Riganti to tell Restelli to come to him. He did not say even to be examined. This was a message only, as it stood upon the evidence. To proceed on this as evidence of agency was to violate not only every principle of established law, but every principle on which substantial justice and substantial law were administered. He agreed with the noble earl that every part of the evidence in the case which was doubtful or suspicious ought to be left out of view. This bill could not be passed but on clear and indisputable testimony only. Evidence which could be fairly objected to, he did not say by counsel at the bar, but by any peer, as tainted with suspicion, ought not to influence the final decision of their lordships. They were to strike out every thing suspicious. He could not, therefore, see how the refusal to go into this inquiry could prejudice the illustrious persons whom it was supposed to favour. As to the Milan commission, he had already said that he had not the least objection to go into the fullest investigation respecting it; but he objected to that investigation being introduced by a side-wind, in a most inconvenient stage of the proceeding, when their lordships found themselves so fettered and embarrassed that they could not do it justice. Let it be introduced on its own grounds, when there would be this advantage—that their inquiry would not be shackled by rules of evidence. Whether he considered this question in its bearing upon the case before them, or on the principles of general justice, he could not bring his mind in the present state of the case, whatever might appear right and necessary in different circumstances, at present he could not bring his mind to consider it consistent with justice to put the question proposed.

Lord Erskine agreed that the noble and learned lord's law upon this point was clear and indisputable; and the only question was, whether the question proposed to be put to the witness was not necessary to arrive at a just conclusion upon the evidence before them. The noble earl who had last spoken said that it was too late now to alter the rules on which they had hitherto proceeded. He agreed in that proposition, unless he could show that *this particular inquiry* was impracticable in any other

form but that now proposed. He did not rise to oppose his noble and learned friend's opinions. He agreed in those opinions, but he rose to state why he thought that in this instance their lordships ought not to be confined to the rules of strict law. If he on any occasion expressed opinions, or if any noble lord went beyond the evidence before the House to animadvert on any individuals, it was the duty of the House, or of the counsel at the bar, to correct that error. He had not said that the gentlemen of the Milan commission had conducted themselves improperly. On the contrary, he was ready to bear testimony to the honour and integrity of the gentleman who was at the head of it. But he had said, that if the commissioners were pure as angels, still the witnesses might have been corrupted before they were brought to them. It was for their lordships to say whether they would rely on the evidence of persons so corrupted, and evidence so much shaken and contradicted. He believed he had said, at least he meant to have said, that there was evidence to call for an inquiry whether there had not been a conspiracy to procure evidence against her Majesty. The principles on which the Milan commission was founded were not in issue, and the commissioners had not been suspected by him; but if they wished to have his opinion upon the evidence produced, they must not decide too hastily against the utmost inquiry into the mode of procuring that evidence. The noble earl on the other side had said, much to his honour, that it was only evidence untainted by suspicion on which the House could decide. But the inquiry now proposed affected the whole of the evidence. It was, therefore, necessary, if the whole of the evidence should not be destroyed, to inquire into the means of obtaining witnesses. In a former stage of the proceeding the judges had given their opinion according to the established rules of law in the courts below. Yet their lordships, by calling back Majochi, departed from those rules, for the purpose of substantial justice. If Riganti was not an agent, what was the meaning of the conduct imputed to him by the evidence before them? He came to Restelli, and asked him to go to Milan to be examined. He desired that part of the evidence to be read. His lordship afterwards read from page 410 of *the evidence* (*Ch. p.* 439.) the account of Riganti's invitation to Restelli to give evidence (under head "cross-

mined by Mr. Wilde.") This proved that Riganti was
it for the purpose of going there to get Restelli to
evidence. If Restelli had had no disposition to go
his own accord, it was the agency of Riganti that
ailed upon him to go. It would be for their lord-
s, by and by, to consider what weight or confidence
could give to evidence so procured. It would be
e impossible, according to the doctrine of his noble
learned friend, to prove agency wherever there was a
spiracy, or attempt at subornation: for, should they
Riganti. it would be not to prove that some had
n corrupting and corrupted, but that he himself had
n corrupting and corrupted. He did not ask what
consequence would be of calling Riganti, but he
id, for what purpose he could be called to this point:
if placed at their bar, he could not be asked whether
had offered money to bribe witnesses. If their lord-
ps were of opinion there was no conspiracy, they
ld say so: but how could they be satisfied there was
e unless they heard the evidence that was now of-
d? And if they did not satisfy themselves whether
ons went about telling witnesses, "if you will give
lence against the Queen you will have a great re-
d," how could they ascertain whether this was so or
? He could not suspect that such subornation pro-
ded from the Commission of Milan; but when he
a great personage discountenanced by all the powers
Europe—driven from her own country, and from the
iety of her friends—forlorn in her circumstances and
spects—and when he saw all the power of the State
yed against her; he, from experience, which was as
ensive in such matters as that perhaps of any of their
lships, felt it to be of the utmost importance to ascer-
how persons came to be witnesses against her. They
ld not without this do justice; but this was not a
rt of justice. They had no right to try in the pre-
t instance by a judicial proceeding; for in an im-
chment the Queen must have been charged with
h crimes and misdemeanors; yet here no crime at
was charged. Therefore, they chose to adopt a legis-
ve proceeding, and then they talked of the rules of
. When he had moved for a list of witnesses, he
d that he had no objection to witnesses brought from
ond sea, provided there were time and means allowed
inquire into their character, and into the circum-

stances upon which they gave their testimony. But when witnesses were brought before their lordships from an immense distance, he must feel it his duty to inquire into whatever suspicions of corruption could arise against them. He could not shut his ear to charges of that nature; and if their lordships refused to go into the inquiry, they could not expect his vote upon the evidence. While there was a suspicion unremoved from the motives of the witnesses, he could not vote for the bill, if the evidence of her Majesty's guilt were as clear and positive as possible. If he acted otherwise, he must renounce the principles on which he had acted through life. The Attorney-General had argued that Restelli had not been sworn at Milan; counsel did right in taking every objection. But if the objection had been taken that he had not been sworn, stronger evidence could not be given to the contrary, than that he had been asked whether he would swear to the truth of what he said, that he answered in the affirmative, and kissed the cross. If their lordships rejected this question, whatever corruption there might have been abroad, they could not go into it. Did they not see that matters came out in evidence which had not been expected? Did any man say that he felt the same confidence in the evidence as before those matters came out. If he should be called on to give his opinion upon the truth of the preamble, he would become the lawyer again—and in course of his life he had had more experience perhaps than any of their lordships, either on one side or the other of public prosecutions—he would then show what evidence ought to be received and what evidence ought not. Because the witnesses had come from a great distance, and because he found there was much corruption in obtaining evidence, if this question is refused I can go no further.

Lord Redesdale said that the rules of evidence now proposed to be set aside were sanctioned by the experience of ages as the best means of ascertaining truth. If this question should be put in contradiction to those rules, were they not in a manner rejecting the best means of ascertaining truth? A noble and learned lord had said that Riganti was in some way or other connected with this business, but the evidence did not establish any such fact, and there were no particular circumstances which should here warrant a deviation from

the ordinary rules of evidence; more especially as those rules had been strictly observed while the case in support of the bill was proceeding.

Earl Grey declared that he was unconvinced by the arguments he had heard in opposition to his motion; but, as the sense of the House appeared to be against it, he did not think it necessary to press it to a division.

The Lord-Chancellor wished to say a few words in reference particularly to what had fallen from a noble and learned friend respecting the character of one of the witnesses. The course of a professional life often led to the employment of expressions that ought not to be taken with all the weight usually attached to them; on this account, the character of the witness given on a former day by his noble and learned friend, while in that of to-day he (the Lord-Chancellor) was disposed fully to concur, viz., that his evidence ought to be looked at with jealousy. Its real worth must depend upon the result. As to bills of pains and penalties, he could not but congratulate the House that in the present instance, disregarding in some respects the precedents of former times, it had guided itself by the ordinary rules of evidence prevailing in our courts. With reference to Riganti, it had been said that if he were called, he could not be asked whether he had given a bribe. This was true; but the authority under which he acted might be inquired into, and other circumstances connected with his agency, besides the fact whether what he did fell within the scope of his authority.

The motion of *Earl Grey* was then withdrawn, and the witness *Pomi* was recalled.

Lord King.—Did Restelli say to you, that Demont either had received, or was to receive a large reward for giving evidence against the Queen?

The Attorney-General objected to the question, and by his desire the following extract was read from the former evidence of the witness, page 838: *(p. 488.)*

"I asked him whether Demont was still in the service of her Royal Highness, he told me that she was; he did not mention to me her name on the day he was taking the drawing, but he mentioned it on the second day, and told me that she had made a good day's work; we were there at the inn, and we drank together."

Mr. Cohen.—He added these words: "and that she, Demont, had gained a great sum."

The question was withdrawn.

A Peer.—Do you expect you shall be paid more or less in proportion as your evidence may be more or less favourable to the Queen?

—I have no hope; but I only say that if they give me I will take it; but I have no hope.

The witness was directed to withdraw.

The Marquis of Lansdowne, before another witness was called, wished to learn if his testimony would also relate to Restelli.

Mr. Brougham replied that it would be in continuance of the same line. He had wished to make himself understood on Saturday, that he was not ready then, nor was he prepared now, to inform the House what conduct her Majesty's law advisers intended to pursue with respect to her defence further than this, that they should at any rate for a certain space follow up the course of inquiry upon which they were now engaged.

The Marquis of Lansdowne added, that his reason for putting this question was, that he intended to submit a motion to the House on the subject of the correspondence of Mr. Powell with Col. Brown, and for this purpose he begged that her Majesty's counsel would inform him when they had concluded their present course of examination.

Mr. Brougham replied, that they would not omit to do so.

The Earl of Carnarvon wished to know from the noble earl opposite, whether any person had been employed by government in Hanover to take depositions; he alluded especially to the testimony of Barbara Kress.

The Earl of Liverpool said that he must answer the question quite off hand, but as far as his recollection went, the only agent employed by the British government in Hanover had been the British minister.

Mr. Brougham then called to the bar

BONFIGLIO OMATI, who, after being sworn, was examined by *Mr. Wilde*, through the interpretation of the *Marchese di Spineto*.

Were you clerk to the Advocate Codazzi at Milan?—Yes.

Was Codazzi concerned as a professional agent for her Royal Highness the Princess of Wales?—He was.

Do you know the Advocate Vimercati?—I do.

Had you at any time any communication with Vimercati respecting the Princess of Wales's papers in Codazzi's custody?—I had.

Did you in that communication explain to Vimercati your reason for coming to him?—Because there was a person who had conducted me as far as his door.

Did you state that to Vimercati?—I did not

Did you state to Vimercati any thing which had passed between you and that person who had so brought you to Vimercati's door?—The

moment he saw me he knew me, and he told me to bring him the papers belonging to her Royal Highness.

Did he offer you any inducement to bring those papers?

The Solicitor-General interposed. It was his duty to object to this course of inquiry as to any conversation between the witness and Vimercati. He apprehended that it could not be evidence with reference to the charges in the preamble of the bill.

Mr. Brougham remarked, that it might be convenient if the other side would state not only the objection, but the grounds on which they rested it.

The Lord-Chancellor concurred with what had fallen from Mr. Brougham.

The Solicitor-General wished to know on what principle of law declarations of Vimercati could be made evidence. Suppose Vimercati had been engaged either as attorney or as advocate, his conversations could not be used to repel the charges against her Majesty. It seemed his business to wait until he heard the argument on the other side; for all he could do at present was to submit with confidence, that, according to the rules prevailing in our courts, what the witness was called upon to state could not be received. If he were required to go more into detail as to his objection, he professed his inability to do so, as the question put was in opposition to the first principles of the law of evidence.

Mr. Wilde, in support of his question, observed, that he apprehended that it would not be made a question whether Vimercati was or was not an agent; on the evidence he stood a known and accredited agent of the Milan commission.

The Lord-Chancellor.—Would it not be better to refer to such parts of the printed evidence as support that conclusion?

Mr. Wilde was prepared to do so if it were held necessary, but he had concluded that the fact would not be disputed. The testimony of Gargiulo, on p. 131 of the printed minutes, *(Ch. p. 125-6.)* was clear as to the instrumentality of Vimercati. The witness was asked—

"Did you see Colonel Brown before you came from Italy to this country?—Yes.

"Were you examined then, just before your departure by Colonel Brown?—No; Colonel Brown examined me last year, in December, as I have said before.

"And a certain lawyer, Vimercati, was present, was he not?—Yes; Vimercati put the questions in the presence of Colonel Brown.

"Were your answers put down in writing?—I believe so.

" Were you sworn to the truth of them?—I subscribed my name at the end of the paper; but I did not swear to it.

" That was in the presence of Colonel Brown and Vimercati?—Yes.

" Have you seen this lawyer, Vimercati, since you were examined?—No; now that I passed through Milan I have not seen him.

" You have not seen Vimercati since you were examined by him in December?—No.

" Did you see any other person on the subject of your testimony, except Colonel Brown and Vimercati?—No.

" The question refers to the subject of the Princess of Wales?—I have seen no other but Vimercati and Colonel Brown."

From the evidence of Di Rollo it also appeared that he was examined before the advocate Vimercati. Raggazoni swore to the same effect, on p. 227. *(Ch. p. 286.)*

" When you were examined at Milan, was what you said taken down in writing?—It was taken in writing.

" Did you sign it?—I did.

" Were you sworn?—Yes, I took an oath at Milan.

" Who swore you?—The advocate Vimercati.

" In what form?—He told me, 'Are you ready to swear upon the truth?" and I said, 'Yes, the truth.'

" Were you sworn upon the gospels, or in what manner?—He told me, 'You are, then, ready to come and swear to the truth?' I said, 'Yes, I am ready to come and swear to the truth.'

" Were you sworn upon the cross at that time?—Yes, I took the oath upon the cross; I took the cross which I carry about me, and I kissed it myself before Vimercati.

" Who was present besides Vimercati at that time?—There were two or four more people who were present, but I do not know who they were; I have given my examination, but I do not know who they were."

Again, on p. 233, *(Ch. p. 293.)* the evidence of Mejani.

" Then you went to Milan without knowing what you were going for?—They had told me that the advocate Vimercati wanted to speak to me, but they did not tell me the motive till I reached Milan.

" Did you know Vimercati before?—I have heard his name mentioned, for he was a friend to a friend of mine, Advocate Marochi; but I never had known him.

" Whom did you see when you got to Milan?—Nobody.

" What persons did you see or go before on this question, when you got to Milan?—When I reached Milan, they told me the hour at which I ought to call at the house of Vimercati; there was this Vimercati, two or three other persons, whom I did not know, and two other Milanese, whom I did not know.

" Were those two or three persons whom you did not know English?—They told me they were Englishmen, but I did not know them.

" Did you hear the names of them?—No, then I did not; afterwards I heard their names.

" Was the name of one of them Colonel Brown?—I heard it afterwards, but then I did not know him.

" Was the name of one of the others Mr. Powell?—I never heard of him but after five or six months, but at that time I did not know him."

Omitting several intermediate proofs of the activity of this advocate, he called the attention of the House to page 424, *(Ch. p. 448.)* where Guggiari was asked—

"Were you examined at Milan?—I have been by Vimercati.

"Who took you to Milan?—A man by the name of Massareni, of Lugano, took me to Milan.

"When did you first mention this which you saw in the pantry?—I have said it before the advocate Vimercati.

"Was that the first time?—That was the first time in which I have spoken of what I have seen.

"Are you quite sure you never mentioned any thing of it to any body, until you saw Vimercati?—He asked me whether I had seen something, and I told him I was always there; and he told me, will you have any difficulty to come and speak to a gentleman; and then this advocate Vimercati said, will you have any objection to come with me to Milan; and I told him yes, I have no objection, I will come with you to Milan."

In short, many other and perhaps stronger instances of the same kind of proof were to be found; for nearly all the witnesses had been examined by Vimercati at Milan, having been drawn thither by subordinate agents. If, therefore, his conduct was not to be made the subject of inquiry, it was very difficult to say whose might be examined. Vimercati and Colonel Brown were the most active persons connected with the Milan commission. Upon the latter of these an eulogy had already been pronounced, and it was complained by his friends that a great deal had been stated, and very little proved. Yet, now the proof was offered, it was resisted, and no doubt for very good reasons, though none of them legal. What the counsel for the Queen intended to do was to prove a corrupt application on the part of Vimercati, sanctioned as the evidence would probably show by higher authority, to obtain possession of the papers of her Majesty. Principals there were none had been often asserted, and now the House was to be told that there were no agents. If so, who was to be responsible? In any court a defendant would be permitted to show what had been the malpractices of the professional agents in getting up the case against him. [The witness was here directed to withdraw, the Solicitor-General observing, that he might understand English.] The same indulgence, or rather the same right, was here claimed for the Queen, who was prepared to show conduct on the part of the gentlemen to whom the witness had referred, such as before any learned judge now sitting on the woolsack would *scout* a prosecution from our courts; no *judge would allow* the ears of a jury to be insulted by the

evidence of men who had been guilty of such base practices. He wished to show that Vimercati had corruptly endeavoured to obtain possession of the papers of the Queen through the clerk of her advocate in Italy. Undoubtedly, many cases might occur in the progress of this trial where the Queen's counsel would be unable to supply every connecting link of agency with some degradating transaction; they might not be able to bring home the fact of bribery in all instances; but the situation of her Majesty would be melancholy indeed, if, when such a detestable conspiracy had been formed against her, and she was provided with evidence to establish its existence, she were not allowed to bring it home to acknowledged agents, because the testimony might be defective in tracing their authority to some undiscovered principal. She might not be able to show always from what pocket the money came, but she could show that it had been employed, and under its influence she was now suffering. This wicked conspiracy had been completed by the vilest corruption, and that corruption had been carried into effect years ago by detestable agents, running from one end of Italy to the other. The Queen had already many disadvantages to contend with—one of them the lapse of time, which prevented detection—but none of them would be so destructive as a supposed rule of law to prevent her from exposing iniquity when she had happily discovered it. It was not necessary in this instance to argue upon probabilities, because here the fact was undeniable that Vimercati was an agent, a most active agent; and if his acts were not to be examined, if the House so decided, the Queen's counsel must submit, for they had no remedy, no appeal.

Mr. Brougham felt it necessary to say only a few words in addition to the very strong and clear statement of his learned friend. He was not much surprised that those who had been so loath to allow him to speak of principals should now be reluctant to permit him to detect the agents; for it was enough for the Queen's counsel to show that they had got firm hold of an authorized agent, to warrant them in asserting that the principal was bound by his acts. He was not bound to bring home to this agent the authority of ministers, or of any other persons under whom he acted; it was enough to prove that Vimercati acted under those who formed the Milan commission, established for the purpose of hunting the Continent for evidence. In whose company was this advo-

cate found? He was always seen co-operating with Colonel Brown, the head of the Milan commission, and indisputably an agent. Mr. Powell, another member of that body, had been looked upon so much as a confidential agent, that he was allowed to keep back information under that pretext. Next came Vimercati, upon whom a panegyric might now be expected, as none had been yet pronounced; for it was enough to bring the conduct of an agent in question for the other side immediately to pronounce an eulogium upon him, as had been shrewdly observed by Mr. Wilde. Perhaps, however, it might be wiser if the Attorney and Solicitor-General postponed a little the expression of their admiration. He (Mr. Brougham) wished the solid proof to precede it; and if that were received, it might render needless the empty praise. He was not sure that Vimercati was a member of the Milan commission; but certain he was that a witness was never examined without his assistance; and his agency was not to be disputed, unless the other side meant to go the length of contending that there was no Milan commission. Granting that the acts of Vimercati could not be examined, because he was professionally and confidentially concerned; still, unless his employer were a principal party, it afforded the agent no legal protection: if it were otherwise, cross-examination would be destroyed, because every witness would shelter himself under the character of an agent to some party or other. Powell and Vimercati were precisely on the same footing—they had always hunted in couples, and acted in concert. Whenever a witness, as the old books expressed it, was handled by the one, he was handled by the other; and if he concluded after the handling of the one, he concluded after the handling of the other. It would be singular indeed if an attempt were made to reject Vimercati altogether, and to show that he was an agent to nobody and for nothing. Yet, if the other side did not go this length, it was clear that the counsel for the Queen would have a right to examine as to his acts. Another objection had been more than hinted at, when it was said that conversations between Vimercati and the witness could not be given in evidence; but the truth was, that the witness was not required to depose as to the words spoken, but as to the fact done; the deed was every thing, and the word nothing. *If they* were prevented from pursuing this

course, he humbly entreated the House—nay, the party most interested in the success of the bill, whose very all depended upon it—to answer this short question—how was it possible for the Queen to proceed further in her defence?

The Solicitor-General, on the other hand, observed, that after the experience he had had of his learned friends, he was not at all surprised at the variety of topics they had introduced. He would not go out of his way to follow them, but discharge his duty by shortly and simply stating the grounds on which he rested his objections to the testimony offered. Still he must say, on behalf of Mr. Powell, that he was a professional agent in support of the bill; that in that character he had carried on a correspondence with Colonel Brown; and that he was bound, as a professional man and as a gentleman, not to disclose voluntarily the nature of that correspondence. On this account, he had represented the situation in which he was placed to the House: personally, he had no backwardness in answering any of the questions put to him, but it was his duty to state the objections that operated upon his mind. Whenever questions on evidence arose, the other side pursued a most extraordinary course—nothing would satisfy them but charges of subornation of perjury; and the more serious the accusation, the more vague was the evidence they offered in its support. The rule in our courts of justice was this—that whenever a grave charge was made, the evidence to support it must be strictly legal. Yet, now all legal forms, all rules of evidence were to be overthrown, to establish the supposed enormous criminality of some individual. According to his apprehension, no act even of the Milan commissioners themselves could be given in evidence in the course of the inquiry, except it related to a particular witness examined at the bar; and a different course would lead to endless collateral inquiries, and irrelevant charges. It was not necessary now to contend to that extent, the question being confined solely to the acts of the advocate Vimercati. It had been laid down, and most properly, that the acts of an agent, when acting within the scope of his authority, might be made use of against his principal; and, applying that rule, what was the situation of Vimercati? According to all the evidence, he was nothing more than a person employd by the Milan commissioners to receive and take down the

evidence. Did the other side pretend to say that what they were about to prove came within the scope of his authority. If so, another question arose—whether they were in a condition to go further, and attack any individuals but those examined at your bar. A great deal had been said about bribes: whether offered by the Milan commissioners, Vimereati, or any others, it might be legitimate evidence if they applied it to the witnesses already examined; but if the counsel for the Queen were not prepared to prove that, they could be allowed to prove nothing. Without, therefore, going into the general question, which was much more important, he rested his objection to the line of examination commenced upon this—that what was imputed to Vimercati was not within the scope of the authority with which he was invested by the Milan commission, and, if it were not the act of the agent, could not affect or bind the principal.

As soon as the Solicitor-General had concluded, the *Lord-Chancellor* adjourned the House, without coming to any decision. It was a quarter past four when their lordships separated.

FOURTEENTH DAY.—October 18.

When the *Lord-Chancellor* took his seat a gentleman from the Treasury presented an account of the expenses of the proceedings carried on against the Queen, in so far as the same could be made up.

The Lord-Chancellor stated, that a question which had been yesterday put by the counsel on the behalf of the Queen had been objected to by the counsel for the bill. The question might be represented to their lordships—at least he thought it a convenient mode of conveying to their lordships' minds to state it thus:—whether a certain person of the name of Vimercati, in order to induce other persons to come forward as witnesses, or to furnish testimony against the party accused by the bill, had not offered a corrupt inducement for that purpose? An objection was very properly taken by the learned counsel for the bill, which objection was answered by the counsel on the other side, and it became the business of their lordships to determine if that question could or could not be put. For his own part he must say, that the case of Vimercati might differ much from those cases which had been before argued, and on which the House had ruled that the acts of agency were not so proved as that they ought in any manner to affect

the case. In stating his opinion upon the immediate question to their lordships, he should be extremely sorry to assume that which had been offered by the learned counsel who raised the objection—namely, that Vimercati being only the counsel or professional agent to the Milan commission, his acts could in no wise affect the proceedings of that commission. He should be extremely sorry to conclude upon so narrow a view of the case. Looking at the evidence, he conceived that there was sufficient proof apparent that Vimercati was, in fact, an agent of the Milan commission; for, if there was not absolute proof of his being an agent, he could not say that there was not proof to make him be considered as such. Upon this understanding of the case, he wished to have the opinion of the learned judges, and he would therefore propose a question for their decision—one which he conceived to be absolutely necessary for his own and their lordships' guidance—that they should know what would be the law and the course of proceeding upon a similar case in the courts below, taking the case to be one which had already proved Vimercati to be an agent of the Milan commission; and considering the fact that he had not been called or examined, and assuming what need not be questioned, that he had offered temptations to witnesses to appear: supposing also that no proof could be made out that any of the witnesses who had been examined for the prosecution had been corrupted, in such a case could evidence be admitted to show that any attempt had been made to corrupt the witnesses who appeared for the defence? His question would be, if in the trial of a civil action or a criminal indictment, evidence had been given on the cross-examination of the witnesses examined in chief for the plaintiff in the civil action, or in support of the charges of the indictment, from which it was to be inferred that A. B. had been employed to collect witnesses for the plaintiff or the prosecution, and if the defendant in a civil action, or under indictment, offered proof that A. B. had gone about to induce C. D. to give corrupt testimony in support of the civil action or criminal charges, no witness called as a witness in chief for the indictment, or the civil action, having, under cross-examination, given any proof of A. B.'s corrupt agency—would the practice of the courts below allow C. D., a witness called for the defence, to give proof

that A. B. had offered corrupt motives to induce him to give false testimony in support of the civil suit or the criminal charges, there being no proof that A. B. had been authorized by his principal to make offers? The noble and learned lord concluded by moving that this question be referred to the judges.

Earl Grey, before their lordships came to a decision on this question, wished to say a few words. If the noble and learned lord wished to propose the question to the learned judges merely for his own satisfaction, he should on that ground not object to it. But he must declare he was of opinion, that, even if the judges did decide that, according to the rules of evidence in the courts below, the examination proposed by the Queen's counsel could not be allowed, their lordships were not bound to act on that decision. On the contrary, he would contend that, in consequence of the knowledge of facts which had come to them from the bar, they were bound to inquire into the truth of the allegations. He was, however, not much disposed to oppose the proposition of the noble and learned lord, because, whatever might be the answer given by the learned judges, he should propose to their lordships to proceed in the course of inquiry which was now suspended. The present point of inquiry was neither more or less than a continuation of the case of Restelli; into that case their lordships had consented to inquire; but the evidence in that case was improperly admitted, if the rule was to be that, unless agency could be proved, they were not to receive evidence of corruption. If the rule, however, of receiving the evidence of yesterday applied to that of to-day, the examination proposed on the part of the defence ought to be allowed. Though it was found from the evidence that Restelli had been constantly employed in collecting witnesses, yet it was not proved that he had been authorized to make them offers. In like manner, with regard to Vimercati, it appeared that he assisted officially in taking down depositions, but *non constat* that out of the room in which the depositions were taken he had been, on any occasion, authorized to do any act. If, therefore, the strict rule of evidence was to be adhered to, the cases were substantially the same. He must also contend, that the rules of courts of law, with respect to evidence in civil actions, were not at all applicable to this case. Their lordships were now sitting as judges, and the case was

of the nature of a criminal prosecution. How, then, the noble and learned lord could propose to limit his question to the rules of evidence of civil actions, was what he could not understand. The present was, in every respect, a criminal proceeding; and what was done in the courts below, with respect to civil actions, could have no relation whatever to the case. If, however, a question were to be put, he should wish it to be framed on the supposition of a prosecution for a capital offence, for nothing else could have any analogy to the case. If any one, in answer, said that this was not a trial for life, he would ask whether the illustrious person who was the object of this bill was not exposed by it to losses greater than life! The question, then, which he would propose to ask, if any were put, would be whether, in a capital case, if evidence were tendered to a judge of an attempt to corrupt witnesses, whose evidence, if received, would be fatal to the person accused, that judge would not think it necessary to relieve the case from all suspicion, and to ascertain by what means that evidence had been procured on which he was to pronounce judgment of death? The question was immaterial whether agency was proved or not. The counsel for the defence proposed to prove that an attempt had been made to corrupt justice, in order to obtain a decision from their lordships, the attempt of which would be to deprive her Majesty of that rank, station, and dignity, and those privileges, which to any individual in her situation must be dearer than life. He thought, therefore, that their lordships, without reference to the judges, ought to decide that the examination should proceed. Having already received similar evidence, were they now to turn round, and alter the rule they had made? What was now proposed was not the introduction of a new rule, but of one which had been followed after all the evidence on one side of the case had been heard. What was the necessity of inquiring into the practice of the courts below? If, either on the prosecution or the defence, a case arose in which corruption was alleged, and an attempt to impose false evidence upon their lordships, they were bound to inquire into the facts, unless they were disposed to shut their eyes to every thing which might prove the proceedings into which they had been drawn to be the result of a foul and wicked conspiracy to deprive the illustrious individual who was accused before them of all those possessions which were to her far more valuable

than existence. For these reasons he must again say, that he saw no grounds for referring the question to the judges; and was of opinion that the testimony which had been offered ought to have been received yesterday. At any rate he could not regard what passed in courts of law on civil actions as having any reference to the evidence offered; for he considered this as a criminal proceeding of the highest kind. When, in the trial of such a case, evidence was offered that an attempt had been made to corrupt justice, and to bring to their lordships' bar false testimony, whether that attempt was attributed to an agent or any other person, he trusted their lordships would not turn their backs on that inquiry which was necessary to detect such iniquity. If that should be their conduct, they would not appear to the public to be doing that justice which was expected from them.

The Earl of Liverpool wished to say a few words in consequence of what had fallen from the noble lord opposite. In the first place, as to the objection to confining the question to be proposed to the judges to the practice of the courts in civil actions, he believed that his noble and learned friend would have no objection to strike those words out, and to let the question go to the judges without any limitation. With regard to the general argument of the noble lord, he thought the view taken by him was altogether founded in mistake. He did not know what the opinion of the learned judges might be, and would therefore postpone the expression of his own opinion till after it had been submitted to their decision, if the House should think proper to take such a course. But he understood the argument of the noble earl to be founded on this question—whether or not it was fit, in this stage of the proceedings, that their lordships should go into an inquiry on a charge of general corruption, which had no immediate application to the case now before them, which could have no relation to the business under consideration, and no effect on the ultimate issue. The noble lord had said that he considered this to be a criminal prosecution, and for a capital offence. He had no objection to take the question on this ground, and consider the present to be a criminal prosecution, and for a capital offence (for the punishment that might be inflicted did not affect the law of the case), and still he would contend that the noble earl was mistaken in his view of the business. But it was asked, if a suborna-

tion of witnesses to appear in this cause can be proved, if it can be shown that any witnesses have been corrupted, or attempted to be corrupted, ought not this to be inquired into? He would admit, that if it should appear that any of the witnesses produced at their lordships' bar had been corrupted, or attempted to be corrupted, or if any witness could be found to have been engaged in corrupting—in such a case he conceived (giving his opinion as an unprofessional man) their lordships ought to receive the evidence. But the question was here, not whether evidence should be received of an attempt made to corrupt witnesses who had appeared at the bar; but whether evidence could be received of attempts made to corrupt persons who had not been brought forward as witnesses? He desired that no man should suppose that he meant to argue that it was not as bad to endeavour to corrupt those who had not been brought forward as witnesses, as it was to suborn those who had actually been before the House. In his opinion, to attempt corruption in the one instance was just as iniquitous as in the other; but what he contended was, that in the latter case they had nothing to do with it at this time, and ought not to be called upon to go into an irrelevant inquiry, which he did not see could have any effect on the present proceedings. He would now apply himself to another part of the question, stating what he had to say very shortly, and merely throwing it out for their lordships' consideration in the absence of the judges, if they should go out on the question now proposed to be submitted to them. He would put it to them, whether they ought to go into an inquiry respecting the conduct of the persons engaged at Milan, without giving some sort of notice to the advocate Vimercati, and Colonel Brown, that they might at least have an opportunity of being here to defend themselves? He would go further, and ask if this were not done, supposing the learned judges should give it as their opinion that the evidence which had been tendered could be received, would their lordships feel themselves justified in receiving it, without admitting, at the same time, evidence of every thing that went to affect the conduct of those who had formed the Milan commission? He considered the admission of all the evidence that might be offered on this subject, to be the necessary consequence of receiving that which was now tendered, and there-

fore he wished the House to consider well what would be the effect of their pursuing the line of conduct now recommended to their adoption. He had already stated that he had not the least objection to the gentlemen who had formed the Milan commission being examined respecting all they had done, and he was content that the advocate Vimercati should, if they pleased, appear at their lordships' bar. All he had to say against receiving the evidence in question was this—that it would lead the House into an inquiry that he could not regard as relevant to the matter now at issue. If the judges should be of opinion that the evidence might be received, he considered that justice would require that they should hear what the parties accused could offer in their defence.

Lord Erskine concurred in opinion with Earl Grey, and spoke at some length, but in a tone of voice which was not distinctly heard below the bar. The evidence he thought ought to be received or rejected by their lordships' decision. He had not altered the opinion which he gave on the subject yesterday. Having considered the matter still further, and called to his recollection his practice at the bar in early life, he felt convinced with his noble friend (Earl Grey) that the examination of the witness ought to be allowed, without any question being put to the judges. He thought it strange that, after the admission had been made that the House were bound by no technical rules, but were to attain the truth and administer substantial justice, the admission of this testimony should be opposed; and in that anomalous proceeding all the disadvantages were still thrust upon the Queen, and none of the advantages accorded to her. Notwithstanding that admission, and the admission (reluctantly made) that nothing could make amends to the illustrious accused for the absence of a material witness, it was not only wished to fasten them down to the rules of law, but to rules of law totally inapplicable to the present case. He would suppose a criminal indictment preferred against persons for suborning witnesses against the Queen. Were he counsel for the prosecution, he would first prove the existence of the conspiracy, and then endeavour to bring it home to the parties by witnesses who would prove the acts of the agent. In the case of the State Trials of 1794, this was the mode in which his noble and learned friend proceeded. A conspiracy *to dethrone* the King was first attempted to be

proved, and then to prove the agents. In the trial of Hardy, the defendant objected that none of the acts proved were made to connect with him; and the learned judge who presided had said, that the charge was of two parts, and the prosecutor might first prove the existence of the conspiracy, and then bring it home to the parties as well as he could. In like manner, the learned counsel might bring proof of a conspiracy against his Majesty. He might bring it home first to Vimercati, he to Colonel Brown, and Colonel Brown to the actual prosecutor. If there had been a conspiracy on foot, no matter by whom, it was the duty of their lordships to sift it to the bottom, to prove the acts of the agents, and thus trace it to its source. The attempt of Restelli to corrupt witnesses was unexampled in the history of jurisprudence; and were their lordships, with the knowledge of this fact, to suffer the matter to rest here? If the counsel for her Majesty proved various acts of subornation of witnesses, how were their lordships to know whether the witnesses already examined had not been procured by these means? He did think they had been suborned, because no person deviates from the truth without some sinister motive; and when their lordships found witnesses declaring on oath what was notoriously and wickedly false, ought they not to be particularly cautious in the evidence they admitted to weigh on their minds? If their lordships divested themselves of the right to probe and examine into the alleged conspiracy, they might undoubtedly do so; but no man who was not a fit inhabitant of Bedlam would say, that, if the evidence were gone into, they were not competent to judge of the probability or improbability of the charge; if they were not, they ought to retire from the situations which they now filled. It was the duty of the counsel for the defence to bring forward evidence to prove this conspiracy; and it was no less the duty of their lordships, as he conceived, to hear that evidence and decide upon it. If it was proved that an agent of the Milan commission offered to bribe a single person to give evidence against the Queen, this single proof of the conspiracy tainted the whole evidence; for, although there might be some witnesses who could not be proved to have been thus bribed, yet it threw a suspicion upon the *whole*. He would appeal to the noble earl opposite, if he had known, before the commencement of this unfor-

tunate business, what he knows now, if he would have gone into the prosecution? He felt perfectly convinced that he would not. Their lordships were not to confine themselves to the rules of a court of justice, for no court of justice ever had to decide on such a cause. He entreated their lordships to permit the counsel to trace the conspiracy to its source; for of the existence of a conspiracy no one could doubt. Their lordships would thus best discharge their duty to the sound principles of justice, to their own character, and to that posterity by which their conduct would hereafter be judged.

The Earl of Lauderdale said, the question appeared to him to be, whether the House would abide by the rules of evidence of the courts of law or not. If the excellence of those rules were admitted in the courts below, he desired to know why they were not applicable to the highest as well as the lowest court of judicature. The doubt on his mind was, that the evidence (and he had carefully looked it over) only applied to Vimercati, as the agent of the Milan commission, in 1820; when it appeared from the evidence of Mr. Powell, that the Milan commission was *functus officio* in 1819. How, then, could it be revivified in 1820? From the evidence of Vincentio Daruzzo, with whom Vimercati conversed, it appeared that at the time of the conversation he might be considered as the agent of Colonel Brown. On these grounds he was for referring it to the judges for their opinion, by which opinion, until his noble and learned friend could convince him that the established rules of evidence observed in the courts below were not the best calculated for the discovery of truth, he should, although as a member of that House he did not think himself at all times bound by such decisions, feel a disposition to regulate his judgment on this question.

The Earl of Rosslyn felt great diffidence in rising to address their lordships on this question, after the able manner in which it had been discussed by his noble and learned friend near him, and his noble friend below him, (Earl Grey). His noble friend who had just sat down was, however, of a different opinion. He was of opinion that their lordships ought to be bound by the rules of evidence in the courts below, because the experience of ages had shown that they were in general best calculated for the discovery of truth. He admitted the fact, and he admitted the ground on which his noble friend had placed

his argument. He was of opinion that the rules of the courts below were the best that could be invented for regulating proceedings between two parties, and these parties, too, fairly opposed to each other. He could not but feel the necessity for not permitting any deviation from the rules of the courts in such cases, on account of any hardship which any of the parties might suffer, because the benefit which one individual might gain by taking advantage of the rule of law, or the injury which another might sustain, was not to be put in competition with the public interest in the regular and uniform administration of justice. The rules, however, might differ, and did considerably differ, in civil and criminal cases. The great object in both was the ascertaining of truth; but in criminal cases the principle of protecting the defendant was carried farther than in civil actions; for the judge was not only held to be impartial, but, by a species of humane fiction of the law, was considered as counsel for the accused. In the present case there was no party except on one side, and certainly none that could suffer by any deviation from the ordinary rules. What were their lordships now doing? They were not trying Colonel Brown or M. Vimercati—they were not trying any ordinary case that fell within the known limits of established laws; but they were considering how they could punish without law—they were deliberating on a measure, the penalties of which were to be applied to acts for which the individual charged with them was not amenable to any law previously existing; for it had been allowed on all hands, even by those who brought forward the bill, that if the illustrious individual who was its object were tried by any of the laws which were supposed to apply to her offence, it would be impossible to find her guilty. On this ground, which was the foundation of the bill, its patrons had called on its opposers to show why it should not pass into a law. The opposing party had then doubtless a right to show that the allegations on which the bill was founded were false—to show that the facts were false, the testimony corrupt, and the whole grounds of the bill unsound and fallacious. In the case of this being shown, the dignity and character of the illustrious party would be preserved; because, on showing that the charges were founded in falsehood, their lordships would not pass the bill: for the whole proceeding was a measure of expediency; and surely there was no man in that House

who would say, that without any proof of guilt it would be expedient to oppress. But who was the other party in the bill? That party was said to be the state. It was said to be expedient for the interests of the state that an individual committing certain acts should be degraded from her rank in the state; although by those acts she had violated no law by which degradation was declared to be the punishment attending them. Their lordships had adopted the part of the state in this case, by ordering the bill to be proceeded in, and by commanding the Attorney-General to appear for the purpose of opening the case for the bill, and of bringing forth the proofs in support of that case. They were now deliberating on the question whether they would exercise their legislative functions in this way; but it also now became a question for their consideration, whether a conspiracy had not been entered into to deceive them by false evidence? He did not charge the conspiracy against the prosecutor; he did not charge it against the party to the bill; he did not charge it against the Milan commission; nor was he bound to prove the connexion of any of those parties with it. But what he would say was this—Do not pass this bill until you ascertain whether, and how far you have been misled. It was sufficient to induce them to go into the proposed examination that there appeared reason to suspect the existence of a conspiracy. It was not necessary that it should be got up by agents of this country; it might be the work of foreign powers. But it mattered not by whom it was hatched. This might eventually appear to be a conspiracy, in which both foreign as well as British agents were employed: but how was this conspiracy to be got at, unless the whole of the agents employed were known, as well as the parties for which they were to be considered as responsible? A notable argument had, indeed, been used—namely, that they ought to confine their inquiries, as to the abettors of corruption, if any there were, to the witnesses who had been examined at their lordships' bar. In reply to this argument he should say, that these were exactly not the persons to whom they ought to confine their inquiry respecting the imputed corruption; for the persons fed and nurtured at the pampered board of corruption were not likely in person to come forward, and run the risk of detection: on the contrary, they were most probably engaged in the underhand machinations of a system to pro-

mote, through the means of others, the main object of their activity. It was not likely that the corrupt agents themselves would run the risk of being stopped in the the cause; nor indeed, if they did come forward in person, could it well be expected that they who had sworn falsely, and been suborners of perjury elsewhere, would speak the truth for their own detection, when they appeared as witnesses in the cause. It was, he thought, obviously impossible to bring to light the acts of such men, except by the failure of some of their efforts to corrupt individuals, which individuals might afterwards confront those who attempted to suborn them. The inquiry into these facts had, he thought, become imperative, not indeed for the parties in this cause, but for the honour and dignity of that House. Would their lordships not think it a direct attack and gross outrage upon their privileges if it were discovered that any of the agents employed in a bill legislatively and judicially before them should have dared to prop up that bill by the production of tainted evidence, or by an attempt to obtain it? The House was bound to dispose of the bill according to the evidence adduced by the promoters of it but was it nothing to ascertain in what manner that evidence had been collected? Was it nothing to show that the fountain from which it was drawn was corrupted and that truth could not flow from such a source? Was it nothing to show this from those who had refused the proffered bribe, and who declared the agent that tendered it? Did any body, in point of fact, doubt the agency of Vimercati in this cause? Nobody could now doubt the agency of either Colonel Brown or Mr. Powell; for the latter, by his refusal to give the letter of the former, clearly established the direct agency of both. If, with these palpable facts before their lordships, with these proceedings of agents so long engaged in collecting testimony, they should deem it right to reject, in the present stage of their proceedings, the only inquiry which could make their future progress safe, then indeed he should be obliged to confess that he saw no safety for the administration of justice there—that he saw no hope of the salutary protection of the community, no safeguard against the recurrence of dark and dubious means to entrap the testimony destined to support the foundation of justice. Where was this protection to be found, if parties were, among themselves, to be per-

mitted for two years to originate this cause in a foreign country, to corrupt and suborn witnesses, to transmit written depositions, and have them sworn to, before the parties making them were brought before the proper legal authorities; and then to be considered as irresponsible, as men whose acts were altogether to be deemed alien from the inquiry? Were their lordships to be shut from the knowledge of such facts at the moment when they were called upon to act upon the evidence so impugned? Were they to turn their eyes from the offer to prove the polluted source from which such evidence came? The moment they so decided, in vain would they shelter themselves under the expediency of acting by rules: they would at once appear to the public, not as honest and unbiassed judges, but as parties in the charge of corruption in which the agents were involved, and for a purpose injurious to the interests of that public, and disgracing the functions with which they were intrusted for the administration of justice.

Lord Manners said, that the plain question before the House was, whether there was any thing in the point now before them which ought to make it an exception to the general rule upon which they had hitherto acted? The first consideration to which they ought to look was the reason of the rule itself, and the importance of its operation. It had been always held that a principal must necessarily avow the acts of his authorized agent; it was, therefore, of extreme importance, considering that responsibility, that the agency should be clearly established. In this case it appeared that commissioners were employed to collect evidence for the prosecution. It was, he thought, clear, that such commissioners were to be held responsible, and that the principals must also avow that responsibility; but the acts or declarations of unauthorized persons could not be so construed, and for the most obvious and conclusive reasons—namely, that, if the rule of evidence were to be opened so wide, there would be an end to the due administration of justice; for then an unprincipled fellow could at any time be found to stop a cause, by doing that which he knew must so obstruct it, though he had no authority whatever from the prosecutor to interfere in the case. Any cause could at any time be so disqualified, and the ends of justice altogether defeated. He was decidedly of

opinion that the question ought to be put for the consideration of the judges.

The Earl of Donoughmore begged that all who concurred in putting the question should not be understood as avowing the sentiments, or approving the acts of the agents of the Milan commission. That was a grave subject of inquiry, which ought to be discussed when the proper time (which the present was not) arrived for the purpose. He cordially concurred in the propriety of putting this question to the judges; for he thought, whenever a doubt arose, they should have the assistance of those learned personages to guide them upon points of law in their proceedings. He thought it at the same time most material that they should throw the door wide open for ascertaining the credit of the witnesses: but still to take care that they admitted nothing contrary to the rules of evidence. If there were any ground for involving in a charge of conspiracy either the Milan commission or its agents, the time would come when that investigation could be fully entered upon; and he was confident that, whatever should be the result, his Majesty's government would stand as free from the imputation as they had been throughout these proceedings in Parliament. Ministers had avowed that the solicitor for the Treasury was the official agent for the prosecution; there was, then, an end of the question about the prosecutor, respecting whom so much had been said both in prose and in verse by certain learned persons, who might have spared their energies upon such a topic.

Earl Grosvenor could not concur with the noble earl, who spoke last, that this was not the time to enter upon the inquiry into the manner in which the evidence for this bill had been procured. What time was more appropriate than this, when they were called upon to consider the efficacy of that evidence? or, were they to be told that they were to go on and act upon evidence which hereafter they might be compelled to discredit? With respect to the bill itself, he had long since shown by his vote the sense he entertained of the propriety of proceeding with it. However, when the evidence produced in its support became of such a suspicious character, he thought they were bound by a proper inquiry to set all suspicions, if possible, at rest. He did think *that this* imputed conduct of Vimercati ought, more

r any thing else, to be now inquired into; for that
ion's name and direct agency would be found in the
utes of each day's proceedings upon the bill. The
le earl opposite (Liverpool) had too much manli-
, he was sure, to deny the agency of Vimercati,
more particularly since Restelli's case had thrown
bts upon the manner in which the witnesses had been
ected. All they knew now respecting Restelli was,
: strong suspicions attached to his share of the busi-
. That he had offered money was directly alleged;
that he might have been sent out of the way to
en himself from the consequences of such detection
by no means impossible, though he (Earl Grosvenor)
not mean to assert that such was the fact. If the
e had been conducted by English witnesses, then
re would be no difficulty in ascertaining the respec-
share of each; but here, when mixed up with the
ncy of foreigners, the discovery became more per-
ked and difficult. He still thought a short bill, now
t the other House of Parliament was about to sit,
ht be brought in, compelling the residence here of
witnesses until the case was terminated; otherwise
saw no prospect of rendering them responsible for
ir evidence, particularly after what had occurred in
telli's case.

Lord Redesdale said the question here was, whether a
ation should be put to the judges for the purpose of
sting the House in deciding upon the admissibility of
evidence of a particular witness? With this question
was of opinion all the arguments of noble lords on the
ject of agency had nothing to do. The sole question
, merely whether the House would see the propriety
ascertaining upon a particular point the usage of the
rts below, and then determine upon adopting a rule,
nd by experience to be conducive to the ends of
ice, and the operation of which was sanctioned by
wisdom of ages? If the House should, without
ous and ample consideration, disregard the rule of
ctice in the ordinary courts of justice, then he must
they would be adopting a course, which, instead of
manently maintaining the established bulwarks of the
ninistration of justice, would be substituting in its
id the fluctuating and perhaps capricious will and
asure of the moment—a decision which would indeed
re no safeguard for the honour and life of any indi-

vidual. He preferred to abide by the rule of law, as invariably administered according to the wisdom and experience of the learned judges.

The Lord-Chancellor said he would shortly trouble their lordships by stating the grounds upon which he thought this question ought to be submitted to the learned judges. The House had been now between 30 and 40 days engaged in the present proceeding, and up to this time, by common consent, they had agreed to abide by the rules of evidence; as administered in the courts below; if these rules had not their foundation in the principles of truth and justice, then the sooner they were shaken off the better. It became, then, important that they should satisfy themselves whether they had better maintain their consistency by still adhering to the rules in the courts below; or whether they could venture to strike out into a new path, and make rules for themselves of a different character. If, upon full consideration, they thought the safer course would be to adhere to those rules which were for ages deemed the best calculated to aid the administration of justice, then he thought it, for their satisfaction, material that they should ascertain from the proper authorities what was the rule of practice as applicable to the present point. A great deal had been said respecting bills of pains and penalties, which was quite irrelevant with the point at issue here; upon that subject, therefore, he should only remark, that, if they did not observe the rules of evidence in such bills, they might hereafter be well entitled to the character now given of them by some persons. As to the imputations so unsparingly cast upon some of the witnesses, he should merely say, that every witness who had appeared at their lordships' bar was entitled to be considered as a person against whom no act of corruption had been proved, so as to impeach his character. He spoke this in a legal and just sense, though he was ready to admit that some of the testimony adduced well deserved scrupulous examination before their lordships decided upon giving it implicit credit: but even that which now seemed to require such scrupulous examination might eventually be proved true, and set right before the case was entirely closed. If that should eventually prove the case, would not that witness who was so set right have just reason to complain of the aspersions which were previously levelled at his charac-

ter? In the present case, it was because he had a serious doubt that he pressed the question for the opinion of the judges, as to the rule which obtained in the practice of the courts below. The noble and learned lord concluded by repeating the question which early in the day he had read to the House, and expressing his readiness to yield to the suggestion of the noble earl (Grey), and omit the words "civil action," and substitute for them "capital offence." In preparing a question of this kind, words of supererogation often technically crept in.

The Marquis of Lansdowne said it was with considerable reluctance that he rose to offer a very few observations on the question now before their lordships. The point as to whether the Queen's means of defence had not been already materially impaired was altogether different from that on which it was now proposed to take the opinion of the learned judges. The great object of inquiry was to ascertain the extent to which the practices of certain agents had been carried in this business. It had been said they ought not to launch into an inquiry in which they might be duped, and that they ought not to raise a fictitious agency, through which corrupt practices might be traced to the one side as well as to the other. There was, undoubtedly, at present, no full and confirmed proof of the authorized agency of Riganti; but it was impossible to suppose that the advocate Vimercati, acting at Milan, confiding in Powell and Brown, making accurate reports of all that passed before him, could have been a corrupt agent of the Queen. He himself had no objection whatever to inquire into the conduct of Vimercati, if such an inquiry should be judged desirable or expedient. A noble and learned lord had contended that the House having always adhered in practice throughout these proceedings to certain rules of evidence, it might be productive of the greatest inconvenience if they now departed from them, important as the occasion was. He heard such a remark with the utmost astonishment, for, according to his recollection, their lordships had not throughout adhered to those rules. They had not so adhered in cases perfectly analogous to the present, and in which, after the judges had declared that a particular question could not be put conformably to the rules of evidence observed in courts below, their lordships had decided that the question should be put. If they turned to page 455 of the

printed minutes of evidence, (*Ch. p.* 484.) where a witness was re-examined by the Attorney-General relative to conversations he had held with M. Marrietti, her Majesty's counsel objected, and the opinion of the judges was taken. It was delivered in one of those clear and valuable statements so well calculated to throw light on the whole subject, which their lordships had had the good fortune to receive from them on more than one important question since the commencement of these proceedings. These learned persons were of opinion that new matter could not be introduced on a re-examination, although touching the motives by which the witness had been actuated in giving his evidence. (Here the noble Marquis, at the desire of Lord Redesdale, read the opinion of the judges at length.) Their lordships, however, for no other reason than that they conceived suspicion did attach where there was no proof that an undue influence had been exercised over the witness with respect to his future testimony, in the apprehension that there might have been an intermeddling by an authorized agent of the Queen, thought proper to extend the comparatively narrow rules adopted in the courts below. It was upon this general ground, and upon any other suggested by counsel at the bar, that, if allowed to pursue their examination, they could prove the existence of a conspiracy, that he thought the same course should be adopted on this occasion. If such evidence was at all admissible on any occasion, it ought to be received immediately. It never could hereafter be received with any good effect. Good God! was it possible that whilst they were proceeding to depose a Queen, with a suspicion hanging over the facts upon which their proceedings were founded, they were to be satisfied with being told that they might inquire into them afterwards? He had heard of an Earl of Warwick, who was a great puller-down and setter-up of kings: he trusted their lordships had no inclination to act in the same capacity with regard to Queens. After having pronounced their judgment against her, would they then deem the time to have at length arrived for ascertaining whether a conspiracy had been formed against her? His Majesty might have married again before this inquiry was concluded (and as the bill now stood he was enabled to do so the moment it passed); and if its result should be to discover that a corrupt conspiracy had been organized against the pre-

sent Queen, what was then to be done? It would be but poor reparation to make to their Sovereign who had been injured, to her Majesty who had been deposed, and to the country which had been deluded, that they must then proceed to divorce the King from his new wife, and set up their former Queen. The real substantial question before them now was—ought the Queen of England to be deposed? He did think that, as far as respected the Milan commission, every person acting in which formed a part of the system of agency under consideration, they were bound to hear whatever evidence was tendered as to the practices which it adopted or sanctioned. Whether such evidence should be allowed to remain afterwards upon their minutes was a separate question, and one which they would have the opportunity of discussing. Their lordships had now to consider whether, if in any case the ordinary rules of evidence ought to be extended, they ought not to be extended in this instance? It could hardly be said that they were establishing another dangerous precedent by this deviation: the case was altogether singular; there was no probability of its recurrence. Upon these grounds he felt satisfied that the learned counsel for her Majesty ought to be permitted to continue his examination.

The Lord-Chancellor said he had prepared a new form of putting the question to the learned judges, which, with the permission of their lordships, he would read.

I. If in the trial of an indictment for a capital offence, or any crime, evidence had been given upon the cross-examination of witnesses, examined in chief in support thereof, from which it appeared A. B., not examined as a witness, had been employed by the party preferring the indictment as an agent to procure and examine evidence and witnesses in support of the indictment, and the party indicted should propose, in the course of the defence, to examine C. D. as a witness to prove that A. B. had offered a bribe to E. F. in order to induce him to give testimony touching the matter in the indictment, E. F. not being a witness examined in support of the indictment, or examined before it was so proposed to examine C. D., would the courts below, according to their usage and practice, allow C. D. to be examined for the purpose aforesaid, or could such witness, according to law, be so examined, if the counsel, employed in support of the prosecution, objected to such examination?

persons, whatever his own might chance to be, now led him to think that the question of his noble and learned friend ought to be put.

The question was then referred to the judges, and at half-past two o'clock the House adjourned.

FOURTEENTH DAY.—October 18.

Counsel being called in, the Lord Chief Justice stated, that the learned judges had conferred upon the questions referred to them by their lordships, but that some doubt being entertained as to the point intended to be proposed by the third question, he took the liberty of suggesting whether their lordships would be pleased to give some explanation of that question.

Lord Erskine, who had been consulting with the judges, withdrew the third question, and the following was agreed to in its place:—

"Supposing that, according to the rules of law, evidence of a conspiracy against a defendant for any indictable offence ought not to be admitted to convict or crimicate him, unless as it may apply to himself or to an agent employed by him, may not general evidence, nevertheless, of the existence of the conspiracy charged upon the record, be received in the first instance, though it cannot affect such defendant unless brought home to him, or to an agent employed by him; and whether the same rule would apply if a defendant sought by such general evidence, in the first instance, to affect the prosecutor with a conspiracy to suborn witnesses for the destruction of his defence."

Lord Erskine wished, that as the learned judges were agreed as to their answers to the two first questions their opinion should be received at once.

The Lord-Chancellor thought it would be better that their lordships should not require the opinion of the judges on the two first questions put to them, before they were prepared to answer the third.

Lord Erskine still wished for the opinion of the learned judges on the two first questions, and thought that they might consider the third question in the interval that would occur while they answered the two first.

The Lord-Chancellor was of opinion that the judges should not deliver their opinion on the two first questions until they had come to a decision on the last. His reason for this was, that there might be in all the three some connexion, which would render it convenient that

their opinion should be given at the same time on all the three. He knew that if he were, in the exercise of his duty as a judge, called upon to consider these questions, it would be more satisfactory to him to have the opportunity of giving his opinion on all the three at once than separately. He, therefore, proposed that the judges should be heard on all the three questions at once.

The judges then withdrew.

Lord Kenyon stated that Mr. Granville Sharpe, who had given evidence respecting the performance of the Moorish dance at Calcutta, wished to make a correction in a part of his evidence. He had, since he appeared at the bar, seen a letter or written document, which raised a doubt in his mind as to whether the Bishop of Calcutta was present at the exhibition of the dance. In answer to a question put across the table, the noble lord said he understood that the bishop's lady was present. Mr. Sharpe was in attendance, he might now be called, if their lordships pleased to hear his explanation.

Granville Sharpe, Esq. was accordingly again called in, and further examined by the Lords.

The Lord-Chancellor.—It has been stated to the House that you are desirous of making some correction in your evidence, with respect to a person or persons stated to have been present at a dance at Calcutta, is that so?—It is.

Be so good as to state what the correction is?—In the evidence I lately gave before your lordships, I stated that the Bishop of Calcutta was present at an Eastern dance; since that time I have seen a private memorandum, made by a person who was present upon that occasion, made about the time, which leads me to believe that the bishop himself was not present, though it confirms other parts of my statement.

Have you any reason to suppose that you made any mistake with respect to the other persons stated to be present on that occasion?—I have no reason to doubt; in fact it is confirmed by the memorandum that the other persons were present,

Are you correct in your recollection, and are you now of opinion that the bishop was not present?—My memory is strongly impressed that the bishop was present, but I consider the written document more to be depended upon than my memory.

The Lord-Chancellor.—I am afraid, my lords, that the witness's evidence will not go to prove whether the bishop was present or not at the dance, if the memorandum is the testimony to be depended on.

Earl Grey.—My lords, if any doubt exists in the mind of the witness respecting the accuracy of the document, which the witness was referred to, I certainly think it ought to be considered as an evidence, that the bishop *might* have been present at the dance.

The Lord-Chancellor.—Whether there is a doubt in the witness's mind, respecting the accuracy of the document, is of no moment; nor is it very material to the question itself, as to whether the bishop was present or not.

The witness was directed to withdraw.

Mr. Brougham requested permission to put in two letters, one of his late Majesty and the other of his present Majesty, both of which he had stated in opening the defence of her Majesty, and requested that the Earl of Liverpool might look at them to identify the hand writing.

The *Earl of Liverpool* was accordingly sworn at the table by the *Lord-Chancellor;* but the *Solicitor-General* expressed his willingness to admit the handwriting of the said letters respectively.

The Lord-Chancellor.—What are the dates of these letters?

Mr. Brougham.—One is dated Windsor Castle, April 30, 1796: the other Windsor Castle, November 13, 1804.

The said letters were marked by the Clerk Assistant.

SAMUEL INMAN was then called in, and having been sworn, produced a paper, and was examined by their lordships.

The Lord-Chancellor.—What paper have you got there?—A certificate of the servitude of William Carrington in his Majesty's Navy.

Are the entries taken from the original books?—I have extracted this from the books of his Majesty's ships therein specified.

Those are faithful extracts?—These are faithful extracts from those books, made by myself; I have the books here from which this is taken.

Mr. Denman, having seen the paper, stated that it did not occur to him to put any questions upon it.

The same was delivered in, and is as follows;

Ships.	Bounty	Place where born.	Age.	Entry.	Quality.	Discharge.		Time.			
						Time.	Cause.	Y.	M.	W.	D.
Manly Gun Vessel...	Prest	Stockton	23	19 June 1805.....	Ab.....	10 Jan. 1806	.....	...	7	1	3
Railleur.....	.....	Essex.....	22	11 January 1806.	Ab.....	21 Feb. 1806	.....	...	1	2	...
" Do.	.....	.....	.....	22 February 1806	Gunner's Mate...	21 Dec. 1807	.....	1	10	3	2
Majestic.....	.....	Essex	22	22 Decem. 1807.	Ab.....	31 Dec. 1807	.....	...	...	1	3
Do.	.....	.....	.....	1 January 1808...	Quarter Master..	8 Feb. 1810	.....	2	1	1	4
Poictiers.....	.....	St. Osyth.....	26	9 February 1810.	Quarter Master..	30 April 1811	.....	1	2	2	4
Do	.....	.....	.....	1 May 1811	Midshipman.....	8 June 1811	Thisbe...	...	1	1	4
Thisbe.	.....	Never joined her	.....	.....	.....	.....	.....				
								5	12	2	6

The witness was directed to withdraw.

Navy Office, 17th October 1820.

These are to certify, That William Carrington is borne on the books of His Majesty's ships above mentioned, the place where born, age at time of entry in each ship, qualities and cause of discharge, as therein expressed, being five years, twelve months, two weeks, and six days.

SAMUEL INMAN.

After a short time, the learned judges being returned, the Lord Chief Justice of the King's-bench delivered the unanimous opinion of the judges upon the first and second questions, severally in the negative; and gave his reasons as follows:—

Lord Chief Justice Abbott.—My lords, the judges conferred together for some time yesterday, upon the questions proposed to them by your lordships; and afterwards separated in order to consider them apart, and met again early this morning, and again conferred together upon them. All of us then agreed in the answers to be given to the questions proposed to us, and I having read to my learned brothers the writing which I had prepared as containing my own sentiments and answer, it was found that they concurred therein; and I have their authority, with your lordships' permission, to deliver what I had written, (which your lordships will observe is in the singular number, being originally prepared as my own alone,) as containing and expressing their sentiments also.

My lords, the first question proposed by your lordships is in these words: "If, in the trial of an indictment for a capital offence, or any crime, evidence had been given upon a cross-examination of witnesses examined in chief in support thereof, from which it appeared that A. B., not examined as a witness, had been employed by the party preferring the indictment as an agent to procure and examine evidence and witnesses in support of the indictment, and the party indicted should propose, in the course of the defence, to examine C. D. as a witness to prove that A. B. had offered a bribe to E. F. in order to induce him to give testimony touching the matter in the indictment, E. F. not being a witness examined in support of the indictment, or examined before it was so proposed to examine C. D., would the courts below, according to their usage and practice, allow C. D. to be examined for the purpose aforesaid, or could such witness, according to law, be so examined, if the counsel employed in support of the prosecution objected to such examination?"

My lords, the question thus proposed by your lordships to the judges must be admitted by all persons to be a question of great importance, as it regards the administration of justice; and it is to me a question entirely new, and of very difficult solution. I have considered

it with all the attention due to a question proposed by your lordships, and with an anxiety proportioned to the importance of the question itself; and it is not without much diffidence that I now offer to your lordships the result of my deliberation. Your lordships will allow me here to interpose an observation, and to say, that the diffidence I felt at the moment of writing has been considerably decreased by the knowledge I now have, that my opinion and sentiments have received the concurrence of my learned brothers.

The question must, as it appears to me, be considered in the same mode, and must receive the same answer, as if the parties were reversed; as if, instead of proof offered on the behalf of a defendant respecting the act of an agent employed by the prosecutor, it were proof offered in reply on the part of the prosecutor, respecting the conduct of an agent employed by the accused to procure and examine evidence and witnesses in support of his defence. If such proof can be received on the part of a defendant, it must be received on the ground that it may lead to a legitimate inference and conclusion, that the witnesses examined against him, although not appearing to have been called before the court by any undue means, are nevertheless, on this ground extraneous and foreign to them, not to be considered as the witnesses of truth. And if such an inference and conclusion can be reasonably and legitimately drawn in favour of a defendant, in the case proposed by your lordships, I am unable to discover any principle upon which I may say that the like conclusion may not be with equal reason drawn against him in the analogous case, that I have taken the liberty to suggest; so that proof of this nature, if admissible, must be expected to lead as frequently to the condemnation of an innocent man by casting discredit upon his defence, as to the acquittal of such a person by disgracing the prosecution; and this consideration enables me to contemplate the question proposed with more calmness than I should be able to view a question, of which the determination might possibly by the exclusion of his evidence lead to the condemnation of an innocent person, but could in no case produce the same consequence by the exclusion of evidence against him.

The question proposed by your lordships, regards the act of "*a person* employed by the party preferring an *indictment as an* agent, to procure and examine evi-

dence and witnesses in support of the indictment;" and it regards the act of that agent, addressed to a person not examined as a witness in support of the indictment, and the offered proof not apparently connecting itself with any particular matter deposed by the witnesses who have been examined in support of the indictment, and leaving therefore those witnesses unaffected by the proprosed proof, otherwise than by way of inference and conclusion; and this question may be considered as it regards the prosecutor or party preferring the indictment, and as it regards the witnesses.

The prosecutor has by the hypothesis employed a person as an agent to procure and examine evidence and witnesses. This is a lawful employment, necessary in many cases, in some meritorious, in none disgraceful or improper, if we look either to the employer or to the person employed; and being a lawful employment, it is to be presumed, until the contrary be shown, that the employer means and intends that his agent shall execute it by lawful means; and as, according to the general rules and principles of law, a person is not to be affected in interest or fame by any act of another, although that other may have been in his employment or confidence as an agent or otherwise, excepting such acts only as either are in their own nature or may by extrinsic evidence be shown to be within the scope of the authority given by him, and which may therefore be considered as his acts performed by the hand, or his declarations uttered by the tongue, of his appointed substitute; it would be contrary to those general rules and principles, to allow a prosecutor, and through him the prosecution that he has instituted, to be disgraced by the act supposed in your lordships' question, without some further proof affecting him, than the terms of that question suggest. It is perfectly consistent with the matters of fact contained in your lordships' question, that the prosecutor may, up to the very moment when the proof is offered, be wholly ignorant of the wicked act of his agent; it is no less consistent that, having been informed of the act, he may have rejected it with indignation, and have repudiated the proffered testimony, and withholden the witness from the court; and if he be absent from the trial, which frequently happens, it may be impossible to prove his ignorance in one case, or the propriety of his conduct in the other.

With regard to the witnesses, my lords, which is the

most important part of this consideration, (because if false witnesses are produced against a person, it is of little consequence to him by what particular procurement they may have been produced,) it is to be considered whether a legitimate inference and conclusion can be drawn against their credit and veracity from the proof proposed. The proposed proof does not directly affect them, it regards an act to which, according to the hypothesis, they may be entire strangers, and being an unlawful act, they are not to be presumed to have been parties to it, or to any other act of the like nature, without proof against them; they may be persons of honour and probity, deposing to facts really and truly occurring within their own personal knowledge, and taking place within their own sight or hearing, as they have averred upon their oath. It may have been intended, that the person to whom the bribe was offered, should speak to other facts, occurring at another time, and in another place, wholly unconnected with them, or with the matters to which they have deposed; can it then be reasonably concluded, that the facts deposed by them are untrue; that however respectable or numerous they may be, they must be all wicked and perjured men, because some other man has, from overweening zeal or a corrupt heart, wickedly endeavoured to seduce by money another person to give evidence touching the matter of that indictment on which they have appeared. I must say, my lords, that I am of opinion, that such conclusion cannot reasonably be drawn, either in the case proposed in your lordships' question, or in that analogous case which I have taken the liberty to adduce. The utmost effect in my opinion of the proposed proof, and in many cases even this would not be a fair or reasonable effect, would be to excite suspicion; but suspicion is not a legitimate ground for the verdict of a jury, which ought only to be founded upon reasonable and probable proof. For these reasons, I think your lordships' first question must be answered in the negative.

This, my lords, is the opinion which, after much consideration, I have formed upon the question proposed by the House. That question is couched in the most general and abstract terms; and your lordships must be aware of the difficulty that may often occur in forming an opinion upon a question of such a nature, applied not *to a matter* of abstract science, but to a matter con-

nected with the business and affairs of men. Few cases occur in the practical administration of justice, wherein a judge does not find some help toward a right decision of a questionable point in antecedent or accompanying facts and circumstances appearing before him, and is not guided in his application of general principles to the individual case by the particulars of that case itself. The question, as proposed by your lordships, does not contain any such aid or guide; I mention not this, my lords, by way of complaint against the question, but by way of excuse for the imperfection of my answer to it; and I must beg leave to add, that notwithstanding the opinion I have delivered on the question proposed, I am by no means prepared to say, that in no case, and under no circumstances appearing at a trial, it might not be fit and proper for a judge to allow proof of this nature to be submitted to the consideration of a jury; and the inclination of every judge is to admit rather than to exclude the offered proof.

II. The same reasons which have induced me to answer your lordships' first question in the negative, lead me to answer the second question also in the negative.—The question is in these words, "If in the trial of an indictment for a capital offence, or other crime, evidence had been given upon the cross-examination of witnesses examined in chief in support thereof, from which it appeared that A. B., not examined as a witness, had been employed by the party preferring the indictment as an agent to procure and to examine evidence and witnesses in support of the indictment, and the party indicted should propose, in the course of the defence, to examine G. H. as a witness to prove that A. B. had offered him a bribe to induce him to bring to him papers belonging to the party indicted, G. H. not having been examined as a witness in support of the indictment, would the courts below, according to their usage and practice, allow G. H. to be examined for the purpose aforesaid; or could such witness, according to law, be so examined, if the counsel employed in support of the prosecution objected to such examination."

In answer to this question, my lords, I must also take leave to add, as another ground of objection to the proof proposed in the question, that it does not thereby appear *what* was the nature of the papers alluded to, or what the *motive* of the party endeavouring to obtain them; for

any thing that can be inferred from that question, the papers might be unconnected with the subject of the prosecution, and relate wholly to some other and different matter.

Then the Lord Chief Justice of the King's-bench delivered the unanimous opinion of the learned judges to the first part of the third question in the affirmative; and to the latter part of the same in the affirmative also, with a qualification, and gave their reasons as follow:

The third question proposed by your lordships is "Supposing that according to the rules of law, evidence of a conspiracy against a defendant for any indictable offence ought not to be admitted to convict or criminate him, unless as it may apply to himself, or to an agent employed by him, may not general evidence, nevertheless, of the existence of the conspiracy charged upon the record, be received in the first instance, though it cannot affect such defendant unless brought home to him, or to an agent employed by him; and whether the same rule would apply if a defendant sought by such general evidence in the first instance to affect the prosecutor with a conspiracy to suborn witnesses for the destruction of his defence."

My lords, we understand the first part of this third question to relate to a prosecution for some crime, the proof whereof is supposed to consist wholly or in part of evidence of a conspiracy entered into by the party then indicted and under trial, so that the conspiracy is to be given in evidence against him; and the latter part of the question regards the case of a person indicted for some crime, and seeking to defend himself against that indictment by proving a conspiracy to suborn witnesses against him; and the points of inquiry in both parts regard only the order and course of adducing the proof before the court; and so understanding this question, we have no hesitation as to answering the first part of it in the affirmative. We are of opinion, that on a prosecution for a crime to be proved by conspiracy, general evidence of an existing conspiracy may in the first instance be received as a preliminary step to that more particular evidence by which it is to be shown, that the individual defendants were guilty participators in such conspiracy. This is often necessary to render the particular evidence intelligible, and to show the true meaning and character of the acts of the individual defendants, and on that account, we presume, it is permitted. But it is to be ob-

served, that in such cases the general nature of the whole evidence intended to be adduced is previously opened to the court, whereby the judge is enabled to form an opinion as to the probability of affecting the individual defendants by particular proof, applicable to them, and connecting them with the general evidence of the alleged conspiracy; and if upon such opening it should appear manifest that no particular proof, sufficient to affect the defendants, is intended to be adduced, it would become the duty of the judge to stop the case *in limine*, and not to allow the general evidence to be received, which, even if attended with no other bad effect, such as exciting an unreasonable prejudice, would certainly be a useless waste of time.

As to the second part of the question, my lords, we understand it to be here assumed, that the supposed conspiracy to suborn witnesses against the accused is a legitimate ground of defence, and that your lordships do not ask the opinion of the judges upon that point, and therefore upon that point we do not presume to offer any thing to your lordships; and considering this latter part of the proposed question, like the first part, to regard only the order and course of adducing the proof, we should give the same answer, in the affirmative, with this qualification only, namely, that the proposed evidence should, in some way, be previously opened to the court, as in the case of a prosecution to be proved by conspiracy, in order to enable the judge to form an opinion as to the probability of bringing the evidence home so as to affect some person, whose acts are material and relevant to the issue in the indictment then under trial.

The Lord-Chancellor moved that the opinion of the judges should be entered on the minutes.—Agreed to.

The Attorney-General said, that having been present, by permission of their lordships, during the delivery of the concurrent opinion of the judges by the Lord Chief Justice, he trusted he should stand excused for submitting a few observations. Whilst engaged in the discharge of a duty which had been cast upon him, he had understood, at its outset, that in the production and reception of evidence their lordships had resolved to be guided by the rules of the courts below. He hoped that in the discharge of a duty so anxious, and to him personally most painful, he should not be supposed to have acted improperly in having, the day before yesterday, interposed to offer an objection founded upon that resolu-

tion. The opinion of the judges, as he understood it, confirmed the validity of the objection as originally taken on a preceding day by his learned friend the Solicitor-General. If, however, their lordships, thought that the inquiry to which the question so objected to was pointed, was an inquiry that ought to be pursued, he, for one, would no longer object to it, but rest persuaded that its result would be to the credit of the Milan commission. Even although a *prima facie* case should be made out against the persons engaged in that commission, their lordships, he was sure, would reserve to him the opportunity of rebutting hereafter the evidence in support of it. At all events he felt conscious that he had throughout endeavoured to discharge with the best ability he possessed a most arduous and most painful duty.

The Lord-Chancellor inquired of the Queen's counsel whether they had any thing to offer in reply to the Attorney-General.

Mr. Brougham said he could not undertake to state that he yet precisely understood the opinion of the learned judges, or the effect of the observations just made by his learned friend.

The Earl of Liverpool thought that a few remarks might, perhaps, save the time of their lordships. He was one of those who had agreed at the commencement that if they went out of the rules observed in the courts below, as to the reception of evidence, they would no longer have any distinct line to follow, and that a great deal of ultimate inconvenience would be found to attend the departure. With regard to the inquiry suggested, he had the most anxious desire that it should proceed. It was essentially different from that in which evidence was offered as to the conduct of an unaccredited agent: a qualified agency was here admitted—the agency of Vimercati. The substance of the opinion delivered by the learned judges was, as he conceived it, that the examination ought not to be pursued; but, as the Attorney-General waved his objection, and the House, he was sure, would give him credit, as they would give credit to all the counsel at the bar, for raising no objections which they did not at the time consider to be valid, it might be desirable that all the parties affected by the proposed examination, so far as it had hitherto gone, should have a full opportunity of justifying themselves.

Earl Grey observed, that it now appeared that the question on which so much time and deliberation had

been consumed was a question which ought to be put to the witness. He thought so too, but not for the reasons stated by the noble earl (Liverpool). If the opinion of the judges was clear, and ought to govern their proceedings implicitly, there was a rule laid down which the noble and learned lord on the woolsack had himself frequently departed in the course of the present trial. The Attorney-General now waved an objection which he had before most strenuously urged; but this was not of itself a reason sufficient to induce him to deviate from any rule which their lordships had previously established, from any principle of law, or that was essential to the administration of justice. Admitting the anxiety of the noble earl (Liverpool) to bring this part of the inquiry to a conclusion—an anxiety which he was sorry had not displayed itself at an earlier period, because it might then have saved a great deal of useless discussion—he could not concur with him in the reasons which he now offered for going into it. Whatever was the practice of the courts below, he was now more than ever confirmed in his opinion that the question ought to have been allowed to have been put at once to the witness. The learned judges did not appear to him to have given a very satisfactory explanation of the points referred to them. In their elaborate answer they gave no distinct statement as to what was the practice of the courts below, but described the matter propounded to them as full of difficulty and doubt. It was not an answer indeed, but an elaborate argument, quite unnecessary on this occasion, and affording no light on the general subject. He expressed his feelings as they arose out of a consideration of the general subject; and he must add, that there was this material defect in the answer of those learned persons—that it stated none of those facts or circumstances which were represented as likely to influence the decision of a judge when presiding at a trial. It was represented on their authority that the proposed course of examination might, on some occasions, be allowed, with the view of eliciting truth. Why, then, upon an opinion so little conlusive, so little distinct as to the usage of other courts—why, as had been so ably urged the day before, in the powerful and inimitable speech of a noble friend behind him (the Earl of Rosslyn), were they, under special circumstances, and in the most special and extraordinary proceeding, to exclude evidence so apparently important? He thought it right to state his view of this

question; but, at the same time, he could not but feel glad that, for reasons, whether good or bad, there was an unanimous opinion that the examination ought to be continued. He now, therefore, moved that the examination should be resumed.

The Lord-Chancellor said, he felt it incumbent upon him to make one or two observations on this subject. When the question was first put to the judges he had endeavoured to call their attention both to the rules of law and to the practice of the courts below. It involved, however, a point perfectly new, and with regard to which no practice could be cited. It became, therefore, a point of mere law, and, as such, the judges had found themselves under an obligation of stating the grounds on which they formed their opinion. As to his own departure from rules previously laid down, he could assure their lordships that no waver of the Attorney-General would induce him to dispense with any objection which in his judgment ought to be maintained. But it appeared to him that the examination in this case might, if pursued, lead to important disclosures, intimately affecting the merits of the case. Their lordships were at liberty, as well as the judges, to consider what particular facts or circumstances might let in evidence of this description. The precedent would then go no further, and could never be quoted in courts of law hereafter, except as a proceeding founded on the peculiar and special circumstances of the case. This was the view which he entertained on this subject, and his opinion he would always state frankly, through good report and evil report, and he might, perhaps, think it right to record it on this occasion.

Lord Erskine said he certainly required no waver of the Attorney-General to convince him that the evidence in question ought to be received. It ought to be received on the ground of its essential importance to the elucidation of the truth. The answer of the learned judges did not amount to a negative of his proposition: it admitted that general evidence might be admissible, and it was difficult to say that one question might not produce evidence of a general nature as well as another. He contended, therefore, that he had the authority of the learned judges for the proposition which he had at first maintained.

Bonfiglio Omati was then again called in, and further examined by *Mr. Wilde*, through the interpretation of the *Marchese di Spineto*.

The evidence of the witness on Monday last was read over, and the witness was asked,

You have stated that Vimercati told you to bring the papers belonging to her Royal Highness, did he offer you any inducement to bring those papers?—He told me that he would give me an employment, and he would give me more emolument than my own employer.

Did he state the nature of the employment he would give you?—In the police of Milan.

Did you afterwards possess yourself of any of her Royal Highness's papers, and take them to Vimercati?

The Solicitor-General objected to this as a leading question, and the counsel were informed that the proper question would be, whether he did any thing in consequence.

Did you do any thing in consequence of your communication with Vimercati with any papers of her Royal Highness?—On the following day I brought him some.

Did Vimercati say any thing to you as to the time at which you were to go to his office?—He told me to call in the evening.

Did he mention any time in the evening?—After sun-setting.

Did you on any other occasion take any papers of Her Royal Highness to Vimercati?—I did.

For how long a period were you in the habit of taking her Royal Highness's papers from Codazzi, her solicitor, and carrying them to Vimercati?

The Solicitor-General objected to the form of the question.

Mr. Wilde.—I ask for how long a time the witness had been accustomed to place those papers in the hands of Vimercati?

The Solicitor-General.—You have asked how long he was "in the habit" of doing so; that I apprehend, is not the way to put the question.

On how many occasions did you take papers from Codazzi, and carry them to Vimercati?—I do not know how many times.

Did you do it frequently?—No.

About how often do you believe?—Seven or eight times at the utmost.

Did Vimercati know, when you took those papers to him, that you were a clerk in the office of Codazzi?—He knew it certainly.

By whose desire, or at whose request, did you take them?—I do not know the man.

Had you any conversation with Vimercati about your taking them?—He told me to bring to him those papers I could get.

Did you receive any thing from Vimercati for taking those papers to him?—Money.

How often did you receive money from Vimercati for taking to him her Royal Highness's papers?—Six times.

Were you satisfied with the money that you got from Vimercati?—I was not.

Did you ever make any complaints to any one that you did not get money enough?

The Solicitor-General objected to this question as being too general.

Did you ever make any complaints to Colonel Brown that Vimercati had not paid you money enough for taking papers from your master to Vimercati?—I complained once.

What did Colonel Brown say to you on your making those complaints?—He told me he was a friend to the advocate Vimercati, and that I ought not to doubt that he, Vimercati, would perform his promise.

The Solicitor-General.—The true interpretation is—"would perform what he had promised."

Did you, in consequence of your communication with Colonel Brown, make any further application to Vimercati for any more money?—Colonel Brown told me to call again on the following day on Advocate Vimercati, who would give me something.

Did you call on Vimercati?—I did.

Did you receive any more money from him?—I did.

Where does Vimercati live at Milan?—He lives in the street of the Crucifisso.

Did he live at the same place at the time you took the paper to him?—Not the first time.

Name the other place at which he lived, when you took papers to him?—The first time he was living in the street Ruga Bella, and then he went to dwell in the street of Crucifisso.

Do you know the number at which he lived in Ruga Bella?—It was in a lane, a narrow street.

Where did Colonel Brown live at the time you applied to him?—Below the bridge of the Eastern gate *(Porta Orientale)*.

Do you know the number?—I do not.

To what subject did the papers relate which you took to Vimercati?

The Solicitor-General objected to parole evidence of the contents of those papers.

Mr. Wilde said, that he had none of the papers to produce; they were in the possession of the other side.

Do you know whether those papers related to charges made against her Royal Highness at Milan?

The Solicitor-General objected to this question.

Do you know to what subject the papers you took to Vimercati related?—I know the subject of some of them.

State to what subject those related of which you knew the contents?—One was a deposition of a femme de chambre *(cameriera)*, who had been sent to Vienna together with Sacchi.

To what subject did the papers relate?—They were letters.

Were there any examinations of witnesses?—Not among the letters; they were letters of her Royal Highness and the Baron and others.

What other papers were there besides the letters?—There were some copies of the advocate Codazzi, who had answered.

Answers to what?—The answers of Codazzi to Bergami.

Were there any other papers than letters and copies of letters?—No.

Do you know to what subject those letters related?—Of some of them.

State them?—One was of Bergami, who said that he would——

The Solicitor-General here interrupted the interpreter. The general tenour, but not the particulars of the letter, might be stated.

Mr. Wilde.—State only what subject the letters related to.

The Interpreter, with strong emphasis, "They stop me, my lords."

The Lord-Chancellor.—Then stop no longer, but go on.

The Interpreter.—The witness states there was one letter from Bergami, who said he would not return to Milan until he saw that those persons who were without shoes before should go again without shoes.

The Lord-Chancellor.—Let that question and answer be struck out.

Mr. Wilde.—The Solicitor-General objected to the answer, and I acquiesced in that objection.

The question and answer were struck out.

What was the subject of those letters; were they on the subject of this inquiry?—The advocate Vimercati told me to bring to him those letters which treated of depositions; that is, which desired somebody to come and give evidence.

Did you, in point of fact, carry papers relating to that subject to Vimercati?—Letters, not papers.

Do you know a man of the name of Riganti?—I do.

Did Riganti ever make any application to you about papers?—He has been at my house to ask for them.

Had you any communication with Vimercati, with respect to the application Riganti made to you for papers?

The Earl of Liverpool submitted that it must first be known whether Vimercati was at all acquainted with the circumstance of an application having been made.

Did you tell Vimercati of Riganti's application for papers?—I did.

What did Vimercati say upon the subject of Riganti's application for papers?—I did not know Riganti, and I asked Vimercati who he was, and he told me that he was a person of character, and that I might give him any papers.

What did Riganti ask you to do with the papers you have spoken of?—To give them to him, and he would give me a great deal—much.

What papers did Riganti wish you to give to him?—Papers respecting the affairs of her Royal Highness.

What affairs of her Royal Highness?—Those which are now in England.

What subject did they relate to?—He told me nothing else.

Did Riganti know in whose employ you were?—He knew it, for he came to my house. Riganti came after me, and asked for the secretary of Codazzi, for I was the secretary of Codazzi.

Did Vimercati say any thing further, as to the employment of Riganti?—He told me that he was a person of character, he told me nothing else.

The Earl of Lauderdale was of opinion that this answer was not sufficiently specific. The person alluded to might have been represented as a man of low character and condition.

When did you first disclose to Codazzi that you had taken those papers?—On the 27th of July.

A Peer.—In what year?—This year.

Mr. Wilde.—Do you mean the year 1820?—Yes, 1820.

Do you mean to say this was the first time you told Codazzi of the circumstance?—It was.

You have said that you do not know the number of Colonel Brown's house; describe the house, and what premises are about it, whether it is a private house, or a shop, or what?—It is a house.

Is there any business carried on at the house, any goods sold there?—There is a shop on both sides of the door.

What sort of shop, what goods are sold in the shops on either side?—On the left, there is a tailor's, and on the right, a dealer in alabaster.

What business does Riganti carry on?—He sells tobacco and salt.

Can you state whether there are any shops next to Riganti's house? There are.

What are they?—I do not know, for I pass seldom that way.

Cross-examined by the *Solicitor-General.*—How long have you lived with Codazzi?—A year and a half.

Have you acted as his clerk all that time?—Always.

Down to the present time?—Till the 27th of July.

Then, on the 27th of July, Codazzi turned you out of his service?

Mr. Wilde objected to the assumption of this fact.

Did Codazzi turn you out of his service on the 27th of July?—He did.

Have you ever been in his employment since?—No.

Do you mean to swear, that from the 27th of July down to the present time, you have never been in the employ of Codazzi?—I can swear it a thousand times.

With whom did you come over to this country?—With the Chevalier Vassali.

Did you come over alone with Vassali, or whom else?—There was another person.

Who was that other person?—A certain Lago Maggiore.

After you had left the service of Codazzi, did you enter into the service of the Chevalier Vassali?—I did not.

Did you not come over to this country as a servant of Vassali?—I did not come in the service of Vassali.

Did you not come over to this country in the character of a servant of Vassali?—No, because he had a servant with him.

Did you never represent yourself, on any occasion to be a servant of Vassali?—No, never.

Did Vassali never represent you to be his servant in your presence?—Never, never.

The Attorney-General.—The interpreter translated it.

"service;" "employment" was the word used. The witness might be employed without being a servant.

When was it you first saw Vimercati?—September the last year.

Can you tell us the day of the month?—I do not know the day.

Can you tell us about the time of the month?—Towards the end.

Did you know Vimercati before?—I did.

Did you go to Vimercati of your own accord, or what led you to go to him?—The employer with whom I was before had some money due to him.

When you went to Vimercati's in the month of September, and towards the end of that month, did you go of your own accord, or what led you to go there?—There was a person who urged me twice to go, and then that person took me himself there.

Did that person tell you what you were to go to Vimercati for?—He told me that I ought to go, because he wished to speak to me, and I should be made a gentleman if I went.

Did he tell you how you were to be made a gentleman if you went?—He told me so much, he told me no more; he told me that he would take me.

Did you know, at that time, that Vimercati was employed at all in the process about her Royal Highness the Princess of Wales?—When I went I knew it.

Do you mean to say you did not know it until you saw Vimercati; did you not know it at the time when you saw this person?—I knew it.

You knew it when you saw this person?—What person?

You have told us that you saw a person twice, who desired you to go to Vimercati; at the time you saw that person, did you know that Vimercati was employed in the process about her Royal Highness?—I knew it.

Was Codazzi at that time employed for her Royal Highness?—He was not employed on the affairs of her Royal Highness in England, but for the affairs that her Royal Highness had in Italy.

Did you know that Codazzi was in possession of papers belonging to her Royal Highness?—I had them in my own writing-table.

Did you not then immediately, as an honest man communicate to your master Codazzi, that you had received this message to go to Vimercati?—I did not.

Did you not conceive it to be your duty to do so?—I thought that I could produce no prejudice, no mischief; that I could do no harm.

Do you mean to say, that you thought you could do no harm in delivering over to Vimercati papers belonging to her Royal Highness: the letters and other documents you have mentioned?—Documents I did not give, I gave letters.

Do you mean to say, that you thought you could do no harm in handing over letters of her Royal Highness to Vimercati, without the consent of your master Codazzi?—Yes, I thought to do no harm.

Did you not think it your duty to tell your master Codazzi, in order that he might judge for himself, whether or not it would do harm?—I did not tell him.

Did you not conceive it your duty to tell him?—I believed it was nothing.

Do you mean by that to say, that you did not think it was your duty to communicate this to your master?—I thought it was my duty, but I neglected it.

Have the goodness to tell us who this person was that called upon you twice, in the manner you have described?—I do not know the person; if I knew him I would tell.

Where did you see him the first time?—In the street of San Vittore, near the theatre.

Did you meet him by accident?—By accident; I did not know him, nor do I know him; he stopped me.

When he told you to go to Vimercati, you being the servant of Codazzi, did you not ask him what his name was, and who he was?—I asked him, and he told me that it was no business of mine to know it.

When was it that you saw him the second time?—On the following day.

Did you meet him by accident the second day?—Yes, in the same place, in the same street.

Did you meet him by accident the second day?—Yes, I was coming from the office.

Was it the same hour the second day?—The same hour.

Did he repeat the same question to you the second time?—He asked me also, whether I had thought upon what he told me the day before.

What did you tell him in answer to that?—That I had thought upon it, and I would not go.

Did you meet him a third time?—No, I went then, this second time.

After telling him you would not go, you in point of fact did go?—Yes.

Did you ask him his name the second time, when he urged you so much to go?—He would not tell me even then; I asked him.

Did you go alone, or did you go with him?—He took me as far as his door.

Have you ever seen this man at any time since?—I have seen him since, but I could not see him clearly in the face.

Had you no curiosity to know who he was?—How could I know it.

Had you no curiosity or wish to know who he was?—If I could have known it, certainly.

Did you follow him for that purpose, when you met him the third time, or on any of the former times?—On the second time.

Where did you follow him to, the second time?—As far as the door of Advocate Vimercati he took me, and then he went away.

Had you any papers in your pocket at that time?—On the following day I brought the papers; then I had none.

Did you ever meet this man by accident again?—I did meet him, but I could not see him in the face.

Only once?—Only once.

Did you speak to him?—I did not see him in the face; I could not speak to him.

Was he a young man or an old man?—Middle-aged.

Of what complexion, light or dark?—Black hair.

A stout man, or how?—A little stout.

How was he dressed?—I am not a painter to draw his picture.

How was he dressed?—I do not remember, I do not know.

Do you mean by that, that you do not know, or that you do not remember?—I do not remember how he was dressed, he was in a coat, but I do not remember the colour of the coat.

Has any body told you that when you came here to be examined at

the bar, you were to be careful not to say "Non mi recordo?"—I have heard it said about the town; and I have asked what was this Non mi recordo.

Has not Chevalier Vassali told you to be particularly careful not to say Non mi recordo?—No; he told me nothing; nobody has told me any thing.

Has nobody told you that you ought to be careful, to say rather "Non mi sovviene," or "Non so?"—I know it by myself, without being told by any body.

Did Vimercati pay you any thing for the papers you delivered the first time?—He gave me three double gold Napoleons, and he told me that they were for me to take chocolate.

When was it that you carried the second parcel of papers to Vimercati?—After the month of September.

Tell us, as nearly as you can, how long it was after the first parcel was delivered, that you carried the second parcel?—Three or four days.

What did Vimercati pay you for the second parcel?—Four single Napoleons.

Did you go the second time in consequence of being sent for, or what led you to go?—I went by my own accord.

When was it you carried the third parcel?—In the month of October.

About what time in the month of October?—I am not able to recollect the day; I know it was in the month of October.

Was it in the beginning, the middle, or the latter end of October?—In the month of October; I do not remember whether it was in the beginning, the middle, or the end; I know it was in the month of October.

Did you get paid for the third parcel?—He paid me at another time.

When was it you carried the fourth parcel?—I carried him papers as far as the latter end of November.

When was it you carried him papers the fourth time?—I do not remember whether it was in the month of October or November.

Did you carry many papers?—Some letters.

Having carried those papers from time to time during this long period, and having been paid by Vimercati, did you ever communicate the circumstance to your master?—I never said any thing to Codazzi.

Do you mean to say that from the month of September to the month of July in the following year, Codazzi never spoke about those papers to you?—Never.

Did Codazzi never miss any of those papers?—No.

Did he never ask for them upon any occasion?—No.

You have said that those papers were left in your charge and custody, were you a confidential clerk of Codazzi?—Confidential clerk.

Being the confidential clerk of Codazzi, did you not think you were acting a most infamous part in selling his letters to the advocate Vimercati?—Not at the beginning.

As the beginning was in the latter end of September 1819, how long was it before the light broke in upon your understanding?

Mr. Denman objected to the question.

The Solicitor-General.—I infer that, as he has said he did not think his conduct infamous at the beginning, he must have thought it infamous at some later period.

Mr. Denman.—For the sake of regularity, and for the

sake of following the example of my learned friend, who often objected to similar questions, I object to the question, because it assumes that some light did break in upon the witness's mind.

The Solicitor-General.—I take a different course.

You have stated, that you did not at first consider that this conduct was most infamous; when was it you did first discover, if you ever did discover, that this conduct was most base and infamous?—About the beginning of this year.

Was it a discovery of your own, about the commencement of the present year, that your conduct was base and infamous, or were you told it by any other person?—There are many who act basely and infamously, but then afterwards they repent, and so have I.

You having discovered, at the commencement of the present year, that this conduct was base and infamous, did you not think it your duty to communicate it to Codazzi?—I thought it better to be silent.

Having not only discovered that the conduct was base and infamous, but having already sworn that you repented of it, did you not think that the best thing you could do, as the fruit of that repentance, was to communicate it to Codazzi, in order that the evil might be repaired?—I could not foresee all these things.

You have told us, that at the beginning of the year it was that you repented, when was it that you carried the last parcel of papers to Vimercati?—I do not remember whether it was in the end of November or in the beginning of December.

Is it to be understood that you never carried any papers after the end of November, or the beginning of December, to Vimercati?—Before I swear, allow me to think a little; in the month of July, when I went to ask about the name of the person who had called at my house, he asked me about the list of the persons who came in favour of her Royal Highness, and I gave him the list.

Did you call on Vimercati in the month of July last?—Yes, to tell him that this person had called.

Was that the same person whom you had before met by accident in the street, that called upon you?—No, the first person I did not know; but the person who came in the month of July was Riganti.

Did you give any papers at that time?—I gave him a list of the persons who were going to set out.

Was that by the desire of Signor Codazzi?—No.

Do you mean to say, that that was a list of the witnesses that were to set out on behalf of her Royal Highness?—They were not all witnesses, I did not give the list of all the witnesses.

How many of the witnesses did it contain?

Mr. Denman said that his learned friend was now examining as to the contents of a writing, which writing was proved by himself to be in the hands of Vimercati. He submitted that this could not be done without producing the writing.

The Solicitor-General said he was perfectly satisfied upon that point.

Are you to be understood to say, you did not communicate to Codazzi that you had given this list?—I did not tell this.

Having repented of what you had done as early as the beginning of the year, you afterwards in July delivered to Vimercati a list of the witnesses coming on behalf of the Queen?—They were five or six; I wrote them, I gave their names myself.

Did Vimercati pay you any thing for that last intelligence?—No, I gave him this list to find out who was the person who had called at my house, this Riganti.

Did Riganti pay you any thing for this list?—I did not give the list to Riganti, but to the advocate Vimercati.

How long was it after you had delivered this list to the advocate Vimercati, that your master Codazzi knew of it?—On the same day that I told it to the advocate Codazzi, on that same day I gave this list to the advocate Vimercati.

With the exception of this list of which you have now made mention, did you deliver any other papers to the advocate Vimercati after the month of December, in the year 1819?—No, except the list in the month of July.

Will you swear that positively at this moment?—I will swear it a thousand times.

Did you after that offer any papers to Vimercati?—I never called on Vimercati till Easter, when Colonel Brown sent me.

You have told us that Vimercati paid you for those papers, did Vimercati pay you for those papers at the time when the papers were delivered?—He did in the beginning, not afterwards.

When was it that Vimercati made you the last payment?—When Colonel Brown sent me, towards the end of March of this year.

How long before that period, the end of March, was it that you received any money from Vimercati?—The end of November.

So that from the end of November to the end of March you never received any money from Vimercati?—Nothing.

Are you perfectly sure of it, and will you swear it?—I will swear it a hundred times.

What was the sum you last received from Vimercati at the end of March?—Fifty-two livres and a half of Milan.

Are you quite sure that that was at the end of March?—I am.

Did you ever, upon any occasion, state that you had received money from Vimercati for papers, in the month of February of this year?—No, I never took any thing.

You are not asked whether you took any thing in the month of February, but whether you have never stated that you took any in the month of February?—I have not said it, and I never called; for from the beginning of December till the end of March, I never called.

Will you swear you have never said it?—Yes, I swear it.

Will you swear you have never in any way so represented it?

Mr. Wilde objected to the question, unless it was stated that the question did not refer to a statement in writing.

Did you not call on Colonel Brown with a bundle of papers?—I had two or three letters to make myself known.

Did you not, when you called on Colonel Brown, ask him whether he was not one of the commissioners appointed to inquire into the conduct of her Royal Highness?—I knew it.

Did you not introduce yourself to Colonel Brown by taking a bundle of letters from your pocket, and asking Colonel Brown, whether he

was not one of the commissioners appointed to inquire into the conduct of her Royal Highness?—I called, and I took out two or three letters.

Did you not deliver those letters to Colonel Brown, saying, "Are you not one of the commissioners appointed to inquire into the conduct of her Royal Highness?"—I showed him the letter to make myself known, and I complained of the advocate Vimercati, who, after having seduced me, had paid me little.

Having stated that, upon taking these letters out of your pocket, did you not ask Colonel Brown, whether he was one of the commissioners employed to inquire into the conduct of her Royal Highness?—Yes, I asked him so; but I knew it.

Did not Colonel Brown ask you what your name was, and who you were?—I made myself known, by telling him that I was the confidential clerk of the advocate Codazzi.

Did you tell Colonel Brown, that you were the confidential clerk of Codazzi, when you first went into the room?—At the first I asked him, whether he was Colonel Brown, for I knew him not.

After you had asked him, whether he was Colonel Brown, did not Colonel Brown ask you who you were?—He answered me yes; he did not ask me who I was.

Will you swear that Colonel Brown did not ask you who you were, and that you did not refuse to tell him?—He did not ask me who I was, but I told him of myself.

Will you swear that Colonel Brown did not ask you who you were, and that you did not refuse to tell; upon which Colonel Brown shut the door, and said, you should not leave the room without informing him (Colonel Brown) who you were?—I swear this not to be true.

In answer to a question put by Colonel Brown, did you not say, you were clerk to the advocate Codazzi, and did not Colonel Brown then give you back instantly the two letters you had delivered to him, and tell you he thought you a most infamous scoundrel, and that you would end by being hanged?—He will be hanged, not I, for I have not said so.

Mr. Cohen stated that he concurred in this being the answer the witness gave, but *Earl Grey* wished the question to be repeated.

In answer to a question put by Colonel Brown, did you not say you were clerk to the advocate Codazzi, and did not Colonel Brown then give you back instantly the two letters you had delivered to him, and tell you he thought you were a most infamous scoundrel, and that you would end by being hanged?—I repeat again that it is not true; he gave me the letters, but he said no more; nay, he shut the door of the room in order that we should not be heard, and he told me to speak not so loud, because I complained of the advocate Vimercati; and he told me to call the next day on the advocate Vimercati; from whom he would cause me to receive two hundred francs; this is what he told me, nothing else, and that the advocate Vimercati is a person of character, and that he would keep his promise.

Did he not, when he shut the door, say you should not go out of the room until you told him who you were?—He is a liar if he says so.

Do you mean to swear that Colonel Brown did not say so?—Yes, I swear it; he told what I have just said.

Did not Colonel Brown say you were a most infamous fellow at that meeting;—*I have repeated* it many times, he did not say so.

Did he not say you would end by being hanged?—He never told me so.

Did he say any thing to that effect?—Nothing at all, for I had been seduced by them, and they are more infamous than I am.

Did you call on Colonel Brown more than once?—I called the first time in the morning, he was not at home, then after dinner I called and I found him, I have been twice.

Did you see him more than once?—Afterwards I saw him many times through Milan.

Did you ever see him more than once at his own house?—At his house only once.

When was that once that you saw him at his own house?—About the end of March of this year.

What were the papers which you carried to Colonel Brown at this time?—Two or three letters.

When you called on Vimercati the first time, did you tell Vimercati who you were?—He knew me.

Did not Vimercati ask you who you were, and did you not refuse to tell?—He did not ask me, because he knew me immediately, and because a person whom I did not know took me as far as to his door.

You mean to swear that Vimercati did not ask you who you were, and that you did not refuse to tell him who you were the first time?—Yes, I swear it is not true.

Did you not live at that time upon the terrace of the Porta Tosa?—No, I lived then at Contrada Larga.

Is that the place where Codazzi lives?—No, where I live.

Did you ever live at the Terragio di Porta Tosa?—At present I live on the Terragio of Porta Tosa.

When did you first go to live there?—On the 29th of September of last year.

Have you lived there from that time to the present?—Yes.

Having stated that for two or three months you did not know it was infamous to betray the confidence of your master, do you consider it infamous to say, upon your oath, that which is untrue?

Mr. Denman, before this question was answered, wished to be referred to any part of the witness's evidence in which he had said that for two or three months he did not know that it was infamous to betray his master.

The following extract was read from the evidence of the witness:—

"You have stated that you did not at first consider that this conduct was most infamous; when was it you did first discover, if you ever did discover, that this conduct was most base and infamous?—About the beginning of this year."

Mr. Denman objected to the question, as not being a correct recital of the evidence of the witness, but merely as the inference of his learned friend.

The Solicitor-General would alter the question, and ask the witness,

Whether, having discovered in the month of January, at last, that it was infamous to betray his master, he thought it infamous to say on oath that which was not true?

Mr. Denman objected to this question also on the same ground; for the witness had not said he had discovered in January that it was infamous to betray his master.

The Lord-Chancellor said the question ought certainly to be put in the terms of the witness's former answer.

Having discovered for the first time in the month of January that your conduct was base and infamous, do you consider it infamous to say, on your oath, that which is untrue?—To swear the truth is just, what is true I swear, and what I have stated I am ready to swear to.

Did you communicate those facts to Codazzi of your own motion?—I told him on the 27th of July.

Upon your telling him on the 27th of July those facts, do you mean to swear that your master immediately dismissed you?—Yes.

Whom have you been living with since, from that time down to the present?—I am in trade.

What trade?—I buy and sell woollen cloth for dresses.

Did you ever carry on that business before?—Yes.

Do you swear that you have no expectation of returning into the service of Codazzi after this business is over?—I swear it, because I am in trade.

Who brought you over here?—Chevalier Vassali.

What are you to have for coming here?—I will receive nothing; I came here to remedy the evil I had committed, and to tell the truth.

You mean to swear that is the only reason of your coming here, and that you do not expect any reward from any person?—I swear it; that being able to return quick home.

Do you mean to swear that nobody made you a promise of any thing for coming here?—I swear it; they have promised me nothing.

And that it is entirely for the purpose of remedying the evil you have occasioned that you have come here; do you mean to swear that?—I do.

And no other motive whatever?—Nothing else.

Have you had any communication with Codazzi since you have been turned out of his service?—No, because I went into the country.

Did Codazzi never send for you?—Never.

Is Codazzi still employed by her Royal Highness?—I do not know.

You mean to swear, that you have neither seen nor had any communication with Codazzi since the month of July?—I swear it a hundred thousand times.

Where do you carry on your trade?—I carry it on at home.

Where is that?—In Porta Tosa.

Is that in Milan?—In Milan.

How far from Codazzi's?—Much distance.

What do you mean by much distance, is it a mile?—Oh yes, more than a mile.

Have you lived in Milan from the month of July down to the time of your coming here?—I always live at Milan, but from the month of July I have been a few days in the country.

Whereabout in the country?—On the territory of Lodi.

Except those few days, have you been in Milan ever since the month of July?—Yes.

You mean to swear, that though you have been in Milan during the whole of that time, Codazzi has not called upon you or seen you?

—I have seen him; I have bowed to him, and nothing else; but I have not spoken to him.

Where did you see him?—On the Corso of the Porta Ticinese.

How long was that after you left his service in July?—About a month.

Was Codazzi still concerned for her Royal Highness when you left his service in July?—He was.

Do you mean to swear, that though Codazzi met you in Milan, he did not speak to you upon any subject at all?—I swear it an hundred thousand times.

Were you not examined at Milan before you came here?—They have asked me very few things.

Why was it they examined you?—Because I had put in writing my deposition, and given it to Codazzi on the 27th of July.

Were you examined by Codazzi on the 27th of July?—I, by my own accord, told him the whole story.

And Codazzi took it down in writing?—I wrote it with my own hand.

Do you mean to swear, that after you had done that, Codazzi turned you out of his service?—I do.

Did not Codazzi at that time tell you, "you must go out of my service now, and I will take you into my service again, for it will not do for you to be in my service till the process is over?"—No, because in the office of Codazzi I got nothing, and I by my trade gain.

Did you leave the service of Codazzi in order that you might gain by your trade, or were you turned out of the office?—He sent me away.

Did you know on the 27th of July that you should gain any thing by your trade?—Yes.

Why?—Because I was still carrying on the trade whilst I was in the office of the advocate Codazzi.

How came you, carrying on trade, and getting money by it, to go into the office of Codazzi, and remain there for a year, where you say you got nothing?—It was for the sake of learning to write well.

Will you swear now that you have no expectation of returning into the service of Codazzi?—I have no expectation, I have no hope, because I am in trade, and it suits me better.

Re-examined by *Mr. Wilde*.—How old are you?—Twenty-two years old.

You have been asked whether Colonel Brown told you you were an infamous fellow; was it after your interview with Colonel Brown that you received money from Vimercati?—On the following day.

How much in the whole did you receive from Vimercati?—Between three hundred and fifty and four hundred francs.

The witness was directed to withdraw, and *Filippo Pomi* was again called in, and further examined by *Mr. Tindal*, through the interpretation of the *Marchese di Spineto*.

Do you know a person of the name of Riganti?—I do.

Do you know whether his name is Filippo?—I do, his name is Filippo.

Where does he live?—On the bank of Porta Ticinese.

What is he by trade?—He sells tobacco, salt, liquors, brandy.

Do you recollect his calling on you at any time?—He did not call

upon me; but when I went into his shop, he always had something to say to me.

Did he never make you an offer?

The Attorney-General submitted, whether, as the evidence stood, it was competent for the counsel against the bill to go into evidence of offers by Riganti, leaving it to the House to determine whether they thought it fit to proceed to hear such evidence.

The Lord-Chancellor thought that, after what the last witness had said as to what had passed between himself, Vimercarti, and Riganti, this question might be asked.

Some objection still appearing, the question was withdrawn.

Mr. Tindal.—Upon that occasion, what did Riganti do?—I went to buy salt, tobacco, or something; and he told me, for he knew I belonged to the Barona, "Pomi, have you ever seen those jokes *(scherzi)* between the Princess and Bergami? now is the time to come forward, to gain something, to become a man."

Did he say any thing more upon that occasion?—He told me this; and I answered him, "No, I have seen no scherzi;" and he replied, "Oh, have you not seen Bergami put the Princess on the back of the donkey, and put his hands under her petticoats?"

Did you make any answer to that?—Yes, I told him that this was a perfect falsehood, for, instead of that, he paid her all possible respect and decency which was due to that great personage.

Was any thing more said?—Yes, at other times, whenever I went to his shop; so that I was obliged never more to go to his shop, for he annoyed me so much.

Cross-examined by the *Attorney-General.*—You are understood to say, that Riganti never called upon you, but that this conversation took place when you went to Riganti's shop; is that so?—Yes, it is positively so; I can swear it.

When was it that this conversation took place?—When I went to buy something, either tobacco or salt, or something.

Can you tell the time, how long ago it was?—I do not know precisely, it happened the last year; I do not know the time precisely.

About what time in the last year?—He said so many times, and whenever I went to his shop he always said such annoyances; and he even went so far as to say that he would wage war till death; that he would be against her till death; and then there were other persons present, there were five or six persons present.

Be good enough to name the names of the persons, or any of them, that were present when this conversation took place?—I could name Antonio Birraghi who was present; I remember he was present, the others I cannot tell; I know them, but I do not know their names.

Who is Antonio Birraghi?—He is a man who always frequented the shop.

Where does he live?—In Milan.

In what part of Milan?—I do not know; I know he lives in Milan; he is a man of that description, I know his name.

Can you tell what he is?—I do not know whether he is employed in the police, or whether he is employed somewhere else, I do not know precisely.

Antonio Birraghi heard this conversation as well as you?—He did not speak to me directly, he spoke to all in general, to all those who were present, and this conversation he had not with me only.

This conversation was generally with the persons in his shop?—Yes, with whomsoever was present.

You say you know some of the other persons, cannot you remember the names of some of the other persons besides Antonio Birraghi?—It is impossible, for those names cannot be recollected, unless I had known that this affair should happen: then I should have paid more attention, and that would have more fixed them in my mind.

This sort of conversation you state, took place frequently, when you went to Riganti's shop?—Yes, about four or five times, as I said; when I heard those annoyances, so as I have said, I was obliged not to go any more to his shop to buy salt or tobacco, or any thing else.

Did you go there to buy those things for yourself, or were they for the people at the Barona?—For my own use, because I wanted them.

Was Birraghi present more than once, or only on one occasion?—I cannot tell; he frequented the shop; he might have been there or he might not have been there; for that once I remember that he was present.

Is what you have stated all that passed on those occasions; did you yourself say any thing more than what you have stated;—I can say nothing more; I said that against that lady I can say nothing, for she is a just woman, and she is a charitable woman.

Examined by the Lords.

The Earl of Lauderdale.—Were you yourself present at the balls at the Barona?—Yes, I told it the other day that I was present.

Were your daughters there?—No, because I had not daughters.

How came you to say, the other day, the sum that they gave was a livre to my wife and half a livre for each of my children, daughters?—I said Figli and Figlie, because my eldest son is nine years and the others are under that age; I have daughters, but they are babies under nine years of age.

The witness was directed to withdraw.

ANTONIO MIONI was then called in, and having been sworn, was examined by *Mr. Williams*, through the interpretation of the *Marchese di Spineto*.

From what place do you come?—From Venice.

What business do you follow there?—Before I was employed in the police; now I am the manager of a theatre.

At Venice?—At Venice, wherever I meet with opportunity.

Do you know a person of the name of Paolo Zancla?—I do.

What is he?—He is a manager of a theatre.

Were you acquainted with that man in the month of March in the year 1818?—I was.

Do you remember being at the theatre at Venice with that Zancla in *hat year*?—In the theatre of San Luca.

In what month?—In the month of November.

At that time do you remember Zancla receiving any number of letters, one or more?—He received two letters at once.

Did you observe whether Zancla opened those letters or not?—I saw him open them, and emotion or surprise after he had read them.

Did you observe that he exhibited emotion or surprise when he read those letters?—Yes, it is very true.

After that, did you and Zancla go together from Venice to Milan?—We set out from Venice and went to Milan.

How soon after the receipt of those letters?—Five or six days, or seven days, thereabouts.

How did you go, by what conveyance?—By a diligence led by Doria.

When you arrived at the place from whence the diligence set out, was there any money deposited there for the use of Zancla?—On the following day that Zancla had received his letters, we went together to the place of the diligence, I saw Zancla receive 15 golden Napoleons.

When you had arrived at Milan, do you remember going with Zancla to a house in the Porta Orientale?—I remember that we went to the Porta Orientale, to look for the number 660.

Do you remember the adjoining houses on either side, can you describe them by the trades carried on by the people, or in any other manner?—Before reaching the door of 660, there is a tailor's shop.

Is that an adjoining house on the one side?—Yes.

Do you at all recollect what is the description of the house on the other side?—I have paid no attention to that; only I paid attention to the tailor's shop, because there we inquired after the number of the door.

Did Zancla go into that house, No. 660?—He went in.

Did you go up or remain below?—I remained below.

How long did Zancla remain away?—About a quarter of an hour.

Did you wait for Zancla till he came down?—Yes.

Did you and Zancla go together to the inn after you had called there?—We did.

While you remained at Milan, do you remember going with Zancla to any other house?—To the house of Vimercati.

Do you speak of Vimercati the lawyer or advocate?—I do.

What is the street, do you remember?—The street Ruga Bella.

Upon that occasion did Zancla go up stairs?—Zancla went into the house and remained about an hour and a half, but this happened on the following day.

Did you remain below during the time?—Yes.

At the end of the time you have mentioned, did Zancla join you again?—Yes, and there was another man in company.

After that did you and Zancla go again to any other house?—To the house of Major Brown.

Do you say that it was Major Brown?—Major Brown.

Do you know a Colonel Brown, as well as a Major Brown; do you know two persons of that name?—No, I know one alone; I do not know whether he is a major or a colonel, I have not seen his brevet.

Do you know the person you call Major Brown?—I saw him on the following day on the Corso de'Servi, where he met Zancla and bowed to him, and Zancla told me he was Major Brown.

Did you at that time observe whether Zancla and the major or the colonel spoke to each other?—They did not speak to each other.

Did they move to each other?—They bowed to each other, and each went their own way.

What was the street in which Major Brown lived?—At the Porta Orientale.

Was the house of which you are speaking, to which you went upon this occasion with Zancla, No. 660, Porta Orientale?—Yes, it was.

Upon this latter occasion that has been spoken of, did Zancla go up stairs?—On the evening when we arrived do you mean?

On the last occasion that has been spoken of?—Yes, he went up stairs.

Did you go up stairs with him?—I remained below.

How long did Zancla remain above?—A quarter of an hour.

When he came down again, did you see whether he had any thing with him?—He had a handful of double gold Napoleons.

To the best of your judgment and recollection, how many double Napoleons might there have been?—He told me 80; but at seeing them, I believe there must have been as many.

Did they in fact appear as many as that?—They appeared to be really 80.

Do you mean 80 pieces, or 40 double Napoleons?—Eighty double Napoleons.

What did he say to you at that time?

The Attorney-General objected to this question, and said that at present there was not the slightest pretence for asking the House to admit evidence so irregular as the conversation, whatever it might be, between Zancla and the witness of what passed between the former and the person with whom he had been. As the case now stood, there was nothing whatever to show that Zancla was either the agent of Colonel Brown or Vimercati.

Mr. Williams contended, that in point of law the question was perfectly admissible. The evidence for which he called fell within the ordinary rule of declarations accompanying the act, but he did not mean to rest on that.

The Solicitor-General denied that they came within any such rule.

Mr. Williams renewed his argument, and contended that the question ought to be put. Suppose the witness were to say that he was told to make depositions against the Queen, whether true or not, and to receive for them valuable considerations; suppose this should appear to be the declaration made by Zancla to the witness—

The Attorney-General here interrupted Mr. Williams, and objected to his learned friend's arguing on any such declaration, which, in this stage of the proceeding, was perfectly inadmissible.

Mr. Williams said, in reply, that the judges, in delivering their opinion this day, had said that on a trial for a conspiracy it was competent for the party to begin at whatever end of that conspiracy they thought proper. The usual practice, they said, was to begin with evidence

of a general nature, showing the existence of the conspiracy, and then to adduce the details, bringing it home to individuals. His object now was to show that an opinion prevailed in Italy, that if witnesses came forward against the Queen, whether right or wrong was their testimony, they would be profitably rewarded. He had here shown that one witness had received a letter, in consequence of which he had gone to Colonel Brown, and that when he came down from that person he had a handful of money, which he showed to the witness, who is now ready to prove the fact. This was only a step in the cause, it was true; but how else but by steps were they to unravel the conspiracy? How else was he to prove it, except by showing the parts of which it consisted?

Mr. Tindal followed on the same side. An agency was to be proved in several ways, both by direct proof, and by reference. It was in a variety of instances only to be proved by the latter. Suppose, for instance, a charge of bribery was brought against a candidate at an election, how rarely in the first instance could evidence be obtained directly to affect the agent? The only way to ascertain the fact was to trace his conduct by his acts, to find out the individual by it, and then trace the bribe to the party giving it: that was the course they were taking here. They saw a person go from Venice to Milan, who found a larger sum than the wants of the journey demanded waiting for him at the diligence-office. The moment he arrives at Milan he calls on Colonel Brown; he then goes to Vimercati, returns again to Brown, and on coming down stairs shows to his friend the handful of Napoleons, producing them as the sum he was to get for his evidence. If this was not bribery, he was at a loss to know what bribery was. Was it not to be inferred from substantive facts, which clearly showed the existence of conspiracy. From separate facts, like that he had stated, the case of bribery was to be made out. In the case of the King *v.* Stone, evidence of a letter was admitted—a letter not written by Stone, nor was there any proof he had ever seen it; but it was still admitted, because, as there were several concerned in one common design, it was held that the letter was evidence against all. Their lordships were, he contended, bound to admit the question to be put to this witness.

The Attorney-General, in reply, entreated the House to pause before it admitted this evidence, and see the

importance of adhering to the ordinary rule of law, which was fatal to the admissibility of this question. They had now heard that they were to be called upon to admit as evidence in this cause the prevalent reports which might have been circulated in Italy, because it was possible they might have made an impression on the minds of the witnesses. The House might now clearly see the extent to which the other side wished evidence to be received. No man could in future be safe if it were allowed; and it was his (the Attorney-General's) duty to object to it, when the object was to substantiate so foul, so heinous, a crime. It was admitted by the counsel for the Queen that they had not yet laid even the foundation for this species of testimony, and they claimed credit for connecting it with the case hereafter. But persons were to be presumed innocent rather than guilty, and the House was bound so to consider Vimercati and Colonel Brown until, by distinct legal evidence, and not by vague declaration, they were shown to be otherwise. Why, at all events, did not his learned friends call Zancla? His agency must be proved before his declarations could affect any of the parties, and that agency could be established only by acts, and those acts must be adopted by the principal. Here nothing was attempted to be proved but the declaration of Zancla, in order to show that he was the agent of Colonel Brown and Vimercati. If the House let in this evidence, they must go still further—it must receive all the prevalent rumours and opinions existing at the time in Italy, because by possibility they might have had some influence on the mind of the witness at the bar. If this had been an indictment, it would have been the duty of counsel to take the objection, and in this proceeding it was no less his duty to do so because a false impression might be produced—the statement of what could be proved might go forth to the world with nearly the same effect as the actual evidence. Colonel Brown and Vimercati ought not to be convicted upon mere suspicion and inference. What the witness had already stated amounted to nothing. He most earnestly entreated their lordships, before they decided to receive the evidence, and thereby to deviate so widely from all the established rules of evidence, to consider that the inquiry in that case must be interminable; it had been avowed by the counsel for the Queen that they should bring forward testimony to all the rumours and speculations afloat in

Italy, and if they were allowed to go to this extent there was no safety in future for the life, character, and property of any man. A floodgate would be opened to testimony such as had never been brought forward in any case since the beginning of time. The hypothesis was, that at some time or other Zancla would be connected with the supposed parties to this conspiracy; but the accused had a right to demand that the connexion should be established in the first instance. The objection he had urged was not merely technical, it went to the very foundations of truth and justice, and depended upon rules of law that to this day had been held sacred.

Mr. Brougham said that he had no right to reply, he only wished to explain.

The Attorney-General.—I object, my lords, to this explanation.

Mr. Brougham.—I only beg to say that we do not attack Colonel Brown. (Order, order.)

The Lord-Chancellor said that three grounds had been urged for receiving this evidence:—1st, That testimony might be given of general impressions abroad; but this was the first time his lordship had ever heard of such testimony being offered. Secondly, it was asserted that agency had been established. He could not conceive on what ground the declarations of Zancla, when he came down stairs to the witness, could be admitted as the proof of what had passed up stairs. If this were to be proved, at all events it must be proved by Zancla himself, unless the rule that the best evidence that could be obtained should be adduced were completely reversed. The third point urged was, that this might in the result turn out to be evidence of a conspiracy; but here again his lordship knew of no case where such had been allowed, and where it was not required that the party producing the evidence should connect it more immediately with the charge. For these reasons he thought that the objection urged by the Attorney-General ought to prevail.

Lord Erskine entertained some considerable doubts upon the subject. He agreed that this question ought to be viewed as if the objection had been taken on an indictment; and he admitted also that before such evidence could be entered upon, counsel ought to explain its object, and to state what he intended to attempt by the production of the witness. If the proof failed, no

party would be affected by it. It was asked if this were a connected chain of testimony? It might be so, but as yet the House only saw one of the links which hereafter might be connected, and closely connected with Colonel Brown and Vimercati. The question here was, whether the declaration and explanation on the part of counsel had been sufficient to bring the case within the decision of the judges. His lordship then referred at some length, and in a low tone of voice, to what had occurred on the trial of Hardy, in 1794: he mentioned various circumstances connected with that proceeding, in order to show that the Attorney-General of that day, the Lord-Chancellor of this, had been allowed to state what he should be able to prove against the conspirators, and then to proceed to the proof of it step by step, without, in every instance, showing the precise connexion of the evidence with the parties accused. It had turned out that the prosecutors could not connect the links, at least so the jury found, and a verdict of acquittal was the consequence. The Attorney-General had to-day complained that on such evidence as that offered, a false impression might go forth to the public to the prejudice of Colonel Brown and Vimercati; but when men were on trial for their lives no such objection was allowed; the evidence was allowed to weigh what it was worth for the time, and if it were not brought home to the party, a verdict in his favour was the consequence. His lordship did not see why a different rule ought to prevail in this case. If a conspiracy existed to defame and degrade the Queen, before it was proved, some opening ought to be made at the bar, and the question, as he had observed, in this case, was, whether the explanation that had been given fell within the opinion given by the judges.

The Lord-Chancellor observed, that in his view this point required much consideration, though he was quite satisfied, if his noble and learned friend looked again at the case to which he had referred, he would entertain more doubt than he had expressed. The effect of the cases of Hardy, Stone, and others, had been collected in Mr. Phillips's work on evidence, which did the learned author so much credit, where it was distinctly laid down, that the separate declarations of conspirators *rendered* the whole responsible; but then they must first *be shown* to be conspirators, and their declarations must

be proved according to the regular forms of law. Hardy's trial had occurred so long ago, that until he refreshed his memory regarding it last night, he (the Lord-Chancellor) had forgotten nearly all the circumstances, excepting that he made a very tedious speech, which very nearly killed himself and quite sickened his hearers. Having referred to it, however, he found that the position taken by his noble and learned friend (Lord Erskine) was by no means borne out. If A. B. and C. D. were both proved to be parties to a conspiracy, then E. F. might be examined as to the declarations of C. D., which would also affect A. B., but the testimony of E. F. could not be received until C. D. was shown to be connected with the conspiracy. Here, if Colonel Brown and Zancla were proved to be conspirators, the last witness might give evidence of the declarations of Zancla, but not until Zancla were proved to be connected with Colonel Brown. His lordship here examined a part of the evidence on the point of conspiracy in Hardy's trial, referring particularly to certain letters from Martin to Margarot, and to the opinion of Mr. Justice Buller. Here there was no evidence to connect Zancla with Colonel Brown, though Riganti and Vimercati stood upon different grounds. On the whole, therefore, his lordship felt satisfied that the question proposed could not be put to the witness.

Lord Erskine added, that what the noble and learned lord had selected from Hardy's trial had no reference to the part to which he (Lord Erskine) had alluded.

The Lord-Chancellor begged pardon for interposing; but it might perhaps be as well if his noble and learned friend would take an opportunity of again reading the arguments in that case.

Lord Erskine replied, that he remembered all the main features of the case as well as if they had occurred yesterday. The question was, whether what was now offered to be proved might not hereafter be shown to be a link in a chain of evidence, showing that a conspiracy had existed to suborn witnesses against the Queen. In Hardy's trial, Lord Chief Justice Eyre had allowed the Attorney-General to bring forward evidence of particular facts, on the faith that they would afterwards be combined and united into a series. He (Lord Erskine) did not mean to offer a decided opinion upon this point, but he thought the same liberty ought now to be allowed *to the counsel* for the Queen.

The Lord-Chancellor had no objection to the opinion of the judges being taken on the subject, and Lord Erskine expressed his assent.

Mr. Brougham said, that the House might remember that he was not allowed to open the nature of the evidence upon this point.

Lord Erskine observed, that counsel ought not only to be permitted to open it, but were required to open it.

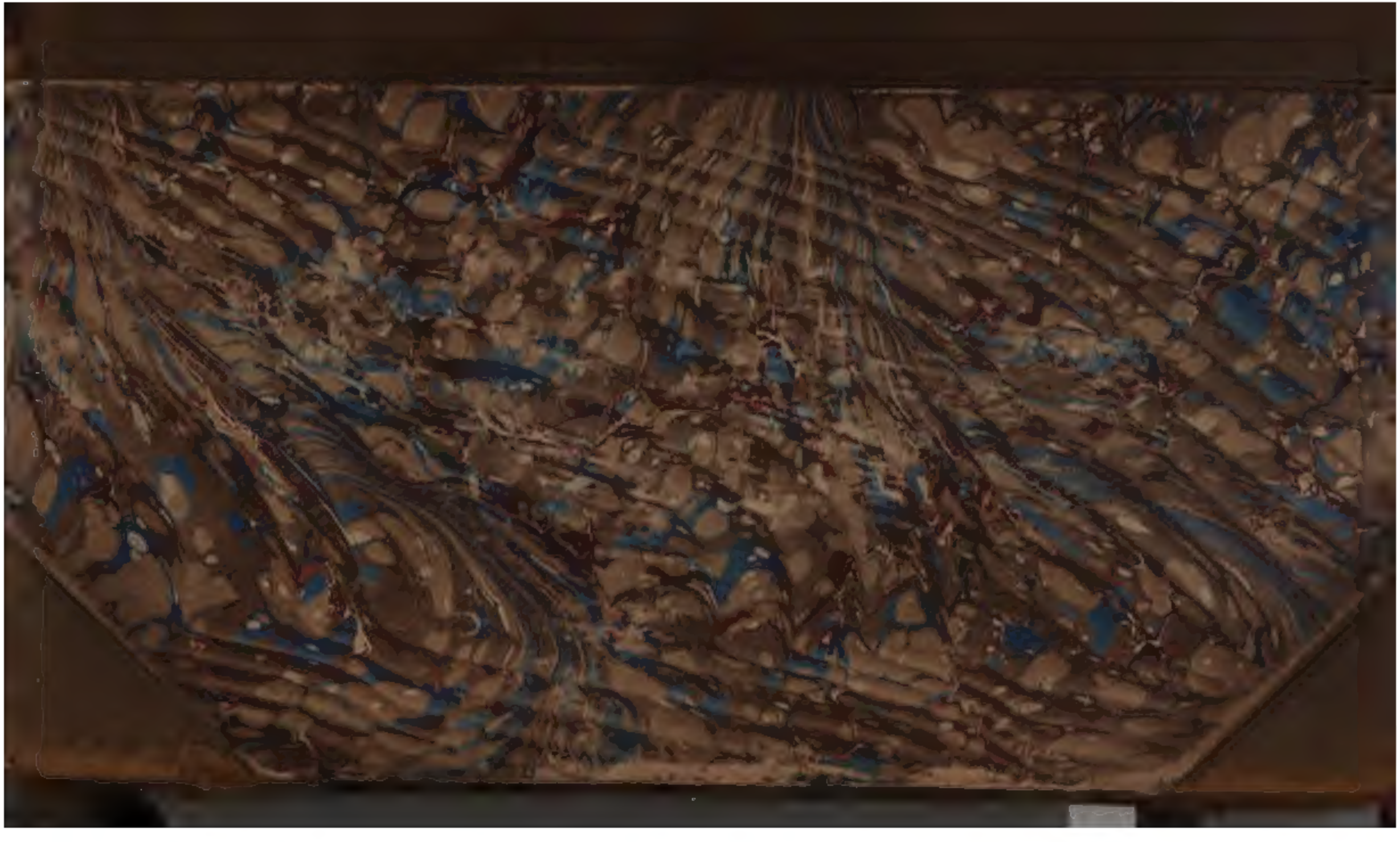
The Lord-Chancellor, after exchanging a few words with the judges who sat near him, said, that though it might not be regular, he was authorized to say that the judges entertained no doubt that the evidence ought not to be received.

Lord Redesdale, in a few words, expressed his concurrence.

Earl Grey felt disposed to agree in the opinion given by the Lord-Chancellor, and upon the three grounds that he had stated. General reports, he thought, ought not to be proved, and the agency of Zancla was not sufficiently established. As to the third point, whether it was proof of a general conspiracy, he felt bound to admit that Zancla was in no way shown to be connected with Colonel Brown, nor could evidence of his declaration be admitted. If Zancla were not connected, it was impossible that the House should hear from a third person what Zancla had told him, in order to affect Colonel Brown. Such being his opinion, he did not think any reference to the judges necessary.

Mr. Brougham.—Will your lordships allow me to state—

The Lord-Chancellor.—The House, I dare say, will have no objection to allow you to state what you wish to-morrow, but it is now 4 o'clock.—Adjourned.

END OF THE DEFENCE, PART I.

J. Robins and Co. Printers, Ivy Lane, London.